

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

February 14, 2022, 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. (All were present)

Approval of Minutes – January 10, 2022, Regular Meeting

The January 10, 2022, minutes were approved as circulated.

Announcements

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

PETITIONS

Audio Timestamp 1:31 p.m.

1.) **PP-21-11-20** **Quasi-judicial** **Commission District I**

Babcock Property Holdings, L.L.C. requests Preliminary Plat approval for a Subdivision to be named, Babcock Ranch Community. Curry Preserve Drive. The subdivision consists of 7 tracts for roadway, drainage, and future development, and it contains 51.03± acres. The site is located South of Bermont Road, North of the county line with Lee County, West of the county Line with Glades County and East of State Road 31, in the East County area and within Commission District I.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-11-20** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira stated that last month we had a couple of these in front of the board. Is this a further continuation of the opening up of Babcock Ranch?

Mr. Cullinan responded yes. There is another one coming up on the agenda, item #4. There will be many more Preliminary Plats from Babcock being brought to the board.

Applicant's Presentation

Robert Berntsson, Big W Law Firm representing Babcock Property Holdings, L.L.C., states this is a continuation of the project now into further development.

Public Input

None offered.

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

Recommendation

Mr. Vieira moved that **PP-21-11-20** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated February 4, 2022, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:35 p.m.

2.) PP-21-11-21 Quasi-judicial Commission District IV

2008 FL Recovery Limited Partnership requests Preliminary Plat replat approval for a subdivision to be named, Harbor Village Commercial. The project is for 13 lots and 3 tracts. previously received Final Plat approval as Harbor Village on September 14, 2021, from the Board of County Commissioners. The site contains 67.32± acres. It is located North of Delamere Boulevard, Southeast of McCall Road (SR 776), East of Gasparilla Road (CR 771), and West of Butterford Waterway, in the West County area and within Commission District IV.

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

Questions for Staff

None offered.

Applicant's Presentation

Robert Berntsson, Big W Law Firm representing the applicant, stated this is the mixed-use portion of the property, that's attended for both commercial and residential. This will also tie in with the plat that you will hear next. Which is a residential plat. He is here to answer any questions.

Public Input

None offered.

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

Recommendation

Mr. Thornberry moved that **PP-21-11-21** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis based on the staff memo dated February 4, 2022, Charlotte County Comprehensive Plan and the evidence and testimony presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

Audio Timestamp 1:38

3.) PP-21-11-22 Quasi-judicial Commission District IV

2008 FL Recovery Limited Partnership has requested Preliminary Plat replat approval for a subdivision to be named, Harbor Village Phase 1. It previously received Final Plat approval as Harbor Village on September 14, 2021, from the Board of County Commissioners. The site contains 315.56± acres, consisting of 283 lots. It is located North of Delamere Boulevard, Southeast of McCall Road (SR 776), East of Gasparilla Road (CR 771), and West of Butterford Waterway, in the West County area and within in Commission District IV.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-11-22** with a recommendation of approval with comments, based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira the highlighted development that sits in the left corner, are the two projects related to each other or the same developer?

Mr. Cullinan answered this had originally been one master developer who owned all the compact growth/mixed use. Those are all part of what was called the west Charlotte town center. Then a number of parcels including this went into foreclosure and were picked up by other entities. All the pieces that are under this compact growth mixed development will have to tie in and meet the standards of that future land use.

Applicant's Presentation

Robert Bertsson, Big W Law Firm representing the applicant, comments this implementing what was approved through the PD zoning. In the PD Consent Plan this is what was seen, they do provide access to the adjoining properties. That's why the line on the other side, so that the other properties can connect through and be part of the overall larger project that was originally contemplated. This is the first phase and will be back with future phases for the balance of the residential development.

Public Input

Dick Sutton, represents the Village of Holiday Lake, their main concern is will there be a buffer area between the village and the project? They don't want any traffic in and out of their area, they are basically there's one way in and out right now, which they would like to keep that way if they can. Another concern is, are people going to be able to walk through their area? They wanted to see if there was going to be any kind of tree line or a fence.

Mr. Gravesen answered he should reach out to the engineers and **Mr. Bertsson**, they would be able to address your concerns.

Mr. Cullinan commented that he could address a few of them. There is a 25ft PD buffer, that is intended to be a vegetated buffer along all sides of the property. There are no connection points into that development. The only connection points are to other properties that would need to be permitted and constructed in conjunction with this. There is no access into theirs.

David Boland, lives in the area, emphasizes the need for a nice buffer between the Village of Holiday Lake and the site. He encourages a natural buffer, he's not in favor of a cement wall and adding shrubbery.

Charles Bailey, lives in the area, asked if there will be a scale plan of this, of what the buffers will be?

Mr. Cullinan the scale plan is one file, they have the PD concept plan, they do not have the final detail site plan yet. The process for a Planned Development works, is they submit for their Planned Development rezoning with a conceptual plan, then come forth for a subdivision. After that they have their final detail site plan and then the final plat will be done. The concept plan is completed but he doesn't believe they have submitted their final detail site plan.

Bernadine Gilbert, lives in the area, she is also concerned about the buffer. There is a lot of wildlife that cross their properties, including a lot of rats coming around while development is happening. She inquired if there will be anything done about the wildlife or if the fence will be put up first?

Mr. Cullinan explained that those items are looked at when building permit and construction plans come in. Wildlife will be displaced that happens when there is development unfortunately.

Charles Bailey inquired if there is rodent mitigation program? They had a problem with rats when development happened across the canal. Do they submit a mitigation program for this type of item?

Mr. Cullinan responded the only items that have to be mitigated for are listed species like gopher tortoises, which would then be removed. Other animals we do not have any requirements for them to trap any other animals.

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

Rebuttal

Mr. Bernttson commented most of the issues that were brought up by the residents are issues that were addressed during the PD rezoning. The buffers were all approved as part of the Concept Plan (CP) approval. They are returning for Final Detail plan (FD) approval, that will fill in the blanks. Buffers will be placed to the south of the property from the residential. There will be no connection to the residential from this project. Since they are not present for the PD rezoning, they do not have any detail plans, just the preliminary plat is with them today.

Mr. McCormick asked if the buffer is located on one side of the road? **Mr. Bernttson** answered staffed requested they put the buffer on the northern side of the roadway. **Mr. Gravesen** commented that's saying theirs going to be a 25ft buffer plus a roadway, between the project and the residential. Which is looking at 60 to 70ft between. **Mr. Bernttson** added there's an additional buffer on the northside of the roadway as well.

Mr. Vieira inquired there's no structure or barrier at the top of Delamere Blvd, will it be a landscape barrier to the north of that? **Mr. Bernttson** answered that's correct.

Recommendation

Mr. Thornberry moved that **PP-21-11-22** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated February 4, 2022, Charlotte County Comprehensive Plan 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 1:56

4.) PP-21-12-23

Quasi-judicial

Commission District I

Babcock Property Holdings, L.L.C. requests Preliminary Plat approval to replat a Subdivision to be named, Babcock Ranch Community, Spine Roads EE5 and GG5. This is a replat of Tracts D-50 and I-44, BABCOCK RANCH COMMUNITY, CYPRESS PARKWAY, as recorded in PLAT BOOK 23, PAGES 15A through 15K and a replat of Tracts D-67 and I-55, BABCOCK RANCH COMMUNITY, TOWN CENTER SOUTHEAST, as recorded in PLAT BOOK 24, PAGES 22A through 22M. The subdivision consists of 13 tracts for roadway, drainage, and future development. The site contains 217.92± acres. It is located South of Bermont Road, North of the county line with Lee County, West of the county Line with Glades County and East of State Road 31, in the East County area and within Commission District I.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-12-23** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for staff

Mr. Vieira asked is there any involvement with Lee County, since it sits right on the Lee County line? Or is there a simultaneously filing with Lee County? **Mr. Cullinan** responded it's not a simultaneously filing but they do have petitions and applications with Lee County for that portion of the development that will take place in Lee County. His understanding, the last time he spoke with Babcock Ranch was that those are still under review. However, if they have been approved by now, he doesn't know.

Applicant's Presentation

Robert Bertsson, Big W Law Firm representing Babcock Property Holdings, L.L.C., He has been sworn and thanks staff. There will development in Lee County and he's not certain where it stands at this time.

Questions

Mr. McCormick asked what is the percentage of buildout that is going here, has the 50% mark been met? **Mr. Bertsson** replied they have recently got increment 2 approved, which is 2nd third of the property. There's still the 3rd of the property that will be coming in for increment 3 in the future. **Mr. Cullinan** commented we track this in our monthly report for public viewing; as of January of 2022, for Babcock we have issued 1,240 of certificates of occupancy (CO) and for the month of January we issued 64 single-family homes permits. This count is a little off because the multi-structure residential buildings that Lennar is doing, they are 40-unit buildings with only one CO. The numbers are not 100% but in terms of COs that's where we are which also includes commercial Cos. **Mr. Bertsson** would guess about 10% of the residential based on that.

Public Input

None offered.

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

Recommendation

Mr. Vieira moved that **PP-21-12-23** be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the staff report dated February 4th, 2022, Charlotte County's Comprehensive Plan, and the evidence presented at the public hearing held by the Planning and Zoning Board, second by **Mr. Thornberry**; and carried by a unanimous vote.

Audio Timestamp 1:39

5.) TCP-21-03

Legislative

County Wide

The proposed comprehensive plan amendments consist of minor policy revisions to update references to State Statutes and codes, amend or remove policy language where an action has been completed, amend policies containing dates that have already passed and the policy is still pertinent, amend policies for better flow and clarity, amend policies to reflect updates to names of referenced agencies or organizations or their programs, create policy language to correct scrivener's errors, and amend a limited amount of policies to reflect changes in initiatives and processes since certain policies were originally adopted, and revise the timeline of programs to match the planning horizon or other deadlines, within one or more of the following elements: Future Land Use; Natural Resources; Infrastructure; Capital Improvement; Coastal; Recreation and Open Space; Transportation; and Housing.

Shaun Cullinan, Planning and Zoning Official, provided a brief introduction. These are the evaluation appraisal report based Comprehensive Plan (CP) amendments. This has been over a two-year process of county staff working with community stake holders, internal stake holders and reaching out to the community in order to draft these. The EAR base amendments are done once every 7 to 10 years and they are intended to look back and see if the things that are in the CP are still working. This is not a comprehensive overhaul, that will come in about another 7-10 years. This is a midrange type of thing because the CP, the reason it's called Charlotte 2050, it's intended to be a very long-range look. We've had 5 workshops and various commission districts, one in each district, where there was a lot of public input. We've also been incorporating staff from all various of county departments, which he would like to give a huge thanks too. Without all the departments input, we wouldn't been able to bring our CP up to date to the statutorily requirements. There are number of new things required such as, the resiliency items that deals with sea level rise. The intentions of these are to bring our CP up to date, statutorily. As well as a look back to see are the citizens overall happy/unhappy with it, do they see changes. They didn't receive much positive or negative feedback; everything is going along well. People were happy with the way things were going. We did need to update some things, some other things such as some of the reference in Babcock needed to be updated in order to deal with recent development order changes. Along with some of the changes

that were made through petitions, we are just cleaning it up and making it consistent here. The next steps once recommend an approval or denial, this would go before the Board of County Commissioners (BCC) for transmittal up to the Department of Economic opportunity (DEP) as well as other state agencies. With that he is turning this over to Jie Shao, she took this over when Matt Trippel left, and she has been running with this and all of the planning staff. He can't give enough platitudes to staff on this.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **TCP-21-03** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick brought up the email that was received from a citizen regarding this, his reading of it is there is a presumption behind the email that he doesn't agree with. **Mr. Cullinan** replied we received one late Saturday afternoon or evening and our intent was to enter that in the public comment and let you know of the email. We didn't have enough time to send it to you, so we felt the best option was to hand it out to you this afternoon this evening. He wanted people to know that the board members were given something at the last minute and it takes a little reflection to respond properly. He intends to respond, but now were going to go to the public hearing. **Mr. Cullinan** agrees whole heartily with him. We enjoy earlier notices as well so we can maybe educate people if they ask questions.

Public Input

Robert Berntsson, Big W Law Firm, just wanted to thank Jie and staff for the tremendous amount of work that went into this. We worked very closely on the Babcock issues and just really can't thank them enough for all of the hard work that went into this, and he supports the changes.

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

Mr. McCormick commented reading the email it seems that staff did a through job of trying to protect public access to our waterways. In that regard there's a presumption in this email that additional access to the waterways would necessarily lead to some kind concern or damage to the water way. Which is a presumption that he doesn't fully agree with. He wanted it to be part of the record that there was a presumption here that the staffs attempt to really reach some of the goals that have been set forth by the state. Which he thinks should be applauded.

Thomas David, Asst. County Attorney, noted we will show that document as part of the record for this hearing.

Mr. Vieira commented looking at the burnt store overlay district with all the development that has either been applied for or approved. He was looking at the different polices starting at 6.2.4, they have timelines in there with all different years for establishment, could that be explained?

Ms. Shao replied are you talking about 6.2.4? Basically, those were changes to be consistent with rehab. The planning horizon which is 2030 and we have vision horizon which is 2050. We basically changed that to match our vision horizon. **Mr. Vieira** the same for 6.2.5? **Ms. Shao** commented that's related to Public Works and we changed it to 2025, related to MPO on their timeline for. **Mr. Vieira** asked they referred to MSTUs, is there not a MSBU district there? **Mr. Cullinan** answered we do have MSTUs, but we also have MSBUs. We will between now and BCC we will just verify that. That's why we need extra sets of eyes on it. You are correct there are MSTUs and also MSBUs, so we will double check to make sure this is the right one.

Mr. Bigness commented there was talk about affordable housing. He believes the Impact Fees have been raised 28% this year, how do you balance the desire to have affordable housing, yet we are four times the inflation rate for the adjustment for impact fees. **Mr. Cullinan** replied under statue if something qualifies as an affordable housing the applicant has the ability to request a waiver of the impact fees that was written into the impact fees legislation. That is processed through the Charlotte Home program. Which is evaluated based on criteria to see if

they meet it. If it is an affordable project, then those impact fees can be waived. **Mr. Bigness** commented if normal projects are increase 28% for that single cost element in the construction project, it can create an even greater need for what you're saying. He was curious if there was any balance mentioned at the County Commission level or the planning level about how that plays into and impacts it. **Mr. Cullinan** replied that has been a long discussion over the past two years, that he's been involved in. All of these things have been looked at, in terms of Impact Fees, and their impacts on certain types of developments, various studies and the legislation that was approved in 2021. All of these issues have been diligently discussed. **Mr. Vieira** asked does the waiver of the Impact Fee does that ensure that the end product is actually an affordable housing unit for the person that's going to occupy it? Is that part of the condition? **Mr. Cullinan** responded he believes they enter into a Land Use Restriction Agreement (LURA) if it meets the criteria for waving the Impact Fees so that can be monitored, through the human services department.

Mr. Gravesen inquired on the climate change, it was referenced a 6 ft increase in the sea level rise, is that taken from the FEMA documents, or is that from some other study?

Donna Bailey, Community Development Floodplain Coordinator, answered the elevation that is shown is based on a local gage. We are using FEMAs intermediate high for the year 2100, it is found in the US Army core of engineer's curve calculator online. **Mr. Gravesen** asked you are then taking this out of a FEMA report and putting it into this document? **Ms. Bailey** answered yes, to provide consistency between CRS program. **Mr. Gravesen** asked if it could be referenced in a different way instead of placing the 6.2ft number there, can it be referenced to the FEMA document instead? That way as the document changes over the years this is referenced to current number by going to that document. One of his concerns would be that creating policies forward this would be used as a device to impact on how some developments go. When this is a FEMA computer model, which could change next year. **Ms. Bailey** responded absolutely, that is a good point. Every 5 years or so, that data is redone, and those numbers do change. She agrees it's best to reference the Intermediate high.

Mr. McCormick commented that its also important to point out that the intermediate high also includes references to a lower number and a higher number. Taking the intermediate high judgement range from FEMA is a good way of identifying it rather than sustain the FEMA document. Which has a wide range of possibilities. **Ms. Bailey** responded it does and it also helps our community rating systems classification. Using the intermediate high is a prerequisite for meeting a class four community. Which is our goal, to improve our classification. **Mr. Cullinan** expressed they are correct, and staff will look into that. One of the issues that they have run into over a decade ago, was the department of community affairs, were opposed to self-amending polices. He doesn't disagree with the way they are requesting for it to be written however he wanted to explain to the board the reason why if we can't change it that way, that would be the reasoning why. Because DEO may still not like the Self-amending polices.

Recommendation

Mr. McCormick moved that **TCP-21-03** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated February 6, 2022, Charlotte County Comprehensive Plan 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.

ADJOURNMENT

The meeting was adjourned at 2:49 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair