

**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**

May 10, 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 – April 12, 2021 Regular Meeting

The April 12, 2021 minutes were approved as circulated.

Announcements

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

PETITIONS

Audio Timestamp 1:30

PP-21-02-05

Quasi-judicial

Commission District I

D.R. Horton Inc. has requested Preliminary Plat approval for a subdivision to be named, Peace River Landings, consisting of 66 residential lots. The site is 20.13± acres, and is located north of Westchester Blvd., south of Old Landfill Rd. east of Loveland Blvd., and west of River Bank Way, in the Port Charlotte area.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-02-05** with a recommendation of approval with a conditions, based on the reasons stated in the staff report.

Questions for Staff

Mr. Gravesen stated the report says there are three comments, is that comments or conditions?

Mr. Cullinan answered those items will need to be addressed prior to the final plat. Conditions typically go on final documents. Prior to the final plat, the applicant needs to be aware of the changes needed.

Applicant's Presentation

Todd Rebol, Banks Engineering, he has reviewed the staff report with no objections and excepts Mr. Cullinan as an expert. He is available for any questions.

Public Input

None.

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

Recommendation

Mr. Vieira moved that **PP-21-02-05** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions one through three based on the staff report dated April 16, 2021, and testimony presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:36 p.m.

PP-21-02-06

Quasi-judicial

Commission District I

Lennar Homes, LLC., has requested Preliminary Plat approval for a subdivision to be named, Babcock National Phase 3, consisting of 38 residential lots. The site is 12.39± acres, and is located south of Bermont Road, north of the border with Lee County, east of Babcock Ranch Road, and west of the border with Glades County, in the South County area and within the Babcock Ranch Community.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-02-06** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

Questions for Staff

None.

Applicant's Presentation

Rob Berntsson, Big W Law, accepts Mr. Cullinan as an expert and has been sworn in. States that it says in the staff report that there are three comments, but there are only two numbered and respectfully request for the board's approval.

Mr. Cullinan apologizes and will investigate that prior to Board of County Commissioners meeting.

Public Input

None.

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

Recommendation

Mr. Vieira moved that **PP-21-02-06** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions one through three, based on the findings and analysis in the staff report dated April 22, 2021, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

Audio Timestamp 1:39

PD-21-00003

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Planned Development (PD) to PD. This is a major modification of an existing PD, Ordinance Number 2020-019, to add development standards for multi-family for ten units per building located within Tract J and a portion of Tract A, and to update total development entitlements via the Murdock Village Equivalency Matrix adopted in the County's Comprehensive Plan; for property located south of Franklin Avenue, north of El Jobean Road (SR 776), east of the Crestview Waterway, and west of the Flamingo Waterway, in the Port Charlotte area and within the Murdock Village Community Redevelopment Area (CRA), containing 434.68± acres; Commission District IV; Petition No. PD-21-00003; Applicant: KL JAK WP, LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **PD-21-00003** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira asked what are the square footages on the commercial uses?

Ms. Shao answered the updated one is, for the regional commercial space for retail/service will be 146,639.59 sq. ft and for the regional commercial space for hotel, nothing changes, 100,000 sq. ft. They used the other square footage for additional 236 multi-family units.

Applicant's Presentation

Linda Stewart, Morris Engineering, representing the applicant, she has been sworn and accepts **Ms. Shao** as an expert. They have reviewed the staff report and join in it with no objections.

Questions for applicant

None offered.

Public Input

None offered.

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

Comment

Mr. Gravesen pointed out that the commercial portion of this seems to be disappearing, since this is the second change to reduce the commercial space to residential. **Murdock Village** was intended for a mixture of commercial and residential.

Recommendation

Mr. Bigness moved that **PD-21-00003** be sent to the Board of County Commissioners with a recommendation of Approval with conditions "a" through "q", based on the findings and analysis in the staff report dated April 20, 2021, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:49

TLDR-20-02 Planned Development (PD) Zoning District Legislative Countywide

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 1) by revising Land Development Regulations Table of Contents to add new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements; 2) revising Section 3-9-45: Planned Development (PD); providing for revised intent; providing for revised uses permitted; providing for revised design criteria and development standards; providing for revised procedures for rezoning to PD; and providing for PD rezoning flow chart; and 3) creating new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements; providing for intent; providing for development requirements within the US 41 Overlay District (41OD); providing for development requirements within the Burnt Store Limited Development (BSLD) and Burnt Store Village Residential (BSVR) Future Land Use Map (FLUM) designations; providing for development within the Compact Growth Mixed Use FLUM designation; and providing for development requirements within the Rural Community Mixed Use FLUM designation or Conservation Subdivision; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **TLDR-20-02** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick confirmed if there was any action taken by the board when this was brought to the board in the fall of last year. **Ms. Shao** answered yes, with a recommendation of approval to the County Commissioners. **Mr. McCormick** clarified with understanding that the Planning and Zoning board approved this, but it never went to the County Commissioners because it got referred back for further clarification?

Mr. Cullinan answered yes. There were some controversial comments given to a Planned Development (PD) at the same time this was brought forward to the County Commissioners. Those comments made staff realize that what was being brought forth was very similar to this. Since the board pulled the PD item and continued it to a date uncertain. Changes were made. The changes were different enough that in an abundance of caution we want to bring it back completely through the process.

Public Input

Geri Waksler, McCrory Law Firm, Thanks the staff for their work on this and mentions that she is speaking as a Land Use Attorney but not on behalf of a client. Express's her concerns with the design criteria and development standards on the cohesive designs not limited to heights, colors, and materials. She explains do we really have to have cohesiveness through an entire 1,000 or a 700-acre PD? Too much uniformity is being asked and not allowing the flexibility that would be needed particularly in the larger PD's for individual pods to be sold off to developers that might have a different concept. You can still have a cohesive development without having uniformity of the materials and the heights. Tremendous strides in this PD ordinance has been made and putting something like this in it would be a source of contention or problem as we move down the line. She recommends for them to leave in the wanting of a cohesive design, but she would not specify heights, colors and materials.

Ms. Waksler also address's the requirement when proposing a multi-family development with two or more buildings or more than 12 units, whichever is greater, and nonresidential developments that you have to provide elevations and building details such as materials and colors. What is the standard against which that is going to be reviewed by a board? There should be some level of certainty when you are creating standards. With these two concerns being considered she recommends approval of the PD.

Rob Berntsson, Big W Law, Thanks staff for their work on this and mentions that he is speaking as a Land Use Attorney but not on behalf of a client and doesn't disagree with anything that Ms. Waksler presented. He has concerns regarding the open space and set back requirements. It says the minimum PD setback shall be 50 feet. He's concerned where there is numbers in stone on the set backs and open space requirements that there should be a general "unless otherwise approved by the Board of County Commissioners".

Todd Rebol, Banks Engineering, is speaking as civil engineer and not representing anyone. The PD is one of those specific kinds of ordinances that gets pushed into PD process a lot in Charlotte County because of our TDU ordinance. A lot of the times they can tell clients it's not much of a difference to go through the PD process than straight zoning districts. Which has to do with timing or purchase of TDUs. If we put too much effort on the PD side for example; such as materials. It may snap back, and people may want to go forward with straight zoning. Which might not be good because they haven't worked through all the straight zoning districts and staff. He thinks that the community in general isn't as happy with straight zoning districts process, which is why the PD process is always a good choice. It allows us to work through some of these things to negotiate. That's why he encourages a balance, none of the straight zoning districts require that level of detail. Specifically, with multi-family, there are no requirements for building materials or elevations as long as you fit within the standards that are in that district. Just another thought and staff did a great job, besides that he does recommend moving forward with this.

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

Discussion

Mr. Vieira is concerned for the revising of the time limitation. Even though we want to change it and give the zoning official the ability to extend the time line, it almost seems like it's a perpetual situation for the PD concept plan. **Ms. Shao** states that the PD concept plan extension is not approved by the zoning official, it goes to Board of County Commissioners for approval. The change is that the concept plan runs with the land forever.

Thomas David, Assistant County Attorney, expresses this is the most impactful change in this revision. He explains that the staff has done a wonderful job of trying to balance the idea of getting greater amounts of time for PD concept plans to remain approved, because the applicant goes through a significant process to do that. He further explains how the PD process is written. They are working on giving a balance and certainty to the property owners, while also leaving retaining to the board it's authority to see a complete process or a complete plan for our PD code. PD's are supposed to be unique or different not a general zoning.

Ms. Waksler was recognized from the audience.

Ms. Waksler expresses that straight zoning districts allow a multitude of uses, that run with the land forever. Nobody seems to have a problem with that. In a PD, more information, other than the development standards, are given with a visual concept plan of what it will look like on land. From there, it is evaluated and has gone through more scrutiny and more thought. Yet, were uncomfortable in that situation to allow that plan to stand. It doesn't make sense that we are ok with straight zoning. Which gives very little detail and a huge range of options as to what you might see on the property. Yet, we are ok with that running forever. However, we are not ok with a concept plan, that gives you specific detail about what you are going to see on the ground. That should also be able to run, because more information is given than a straight re-zoning. If it doesn't work 20 years from now, they will come back in and do a Major Modification to revise it to something that does work, and it goes back through the process. If what was approved 20 years ago still makes sense in the location, why should they not simply be able to move forward and go to a Final Detail plan and get that approved so they can move forward with it. More time, more energy, more effort and more scrutiny shouldn't result in less time that you get to keep that entitlement.

Mr. Gravesen expressed concerns for density, maximum and the permitted maximum. He asked, what kind of discussion did the staff, or the roundtables have concerning that as a background to this?

Further details were given to the board as into what was discussed at the roundtables and meetings on this.

Mr. Gravesen expressed with their explanation it clears that up, the ordinance doesn't however.

Mr. Gravesen comments about the US-41 overlay, open space is mentioned of being 5–10% of that. In the PD ordinance is there any minimum parcel size? Is the open space considered part of the landscaping and the storm water retention?

Ms. Shao answered yes and explains there is an open space requirement, our definition; open space any pervious. Storm water counts towards that.

Mr. Gravesen expresses his concern with the open space, that it's not one more level of restriction for these small commercial parcels. He does agree maybe there needs to be some clarification with what Ms. Waksler said about elevations and materials. In the sections that is too specific that it may need to address just commercial or multi-family more than or exempt straight residential.

Mr. McCormick asked to the attorneys that have commented about the objective to having materials and colors being included in the application, what point in the process would the attorney recommend we address materials and colors?

Mr. Gravesen answered for them, that the materials and the color would not be in a zoning question. In some of the CRA's, Charlotte Harbor CRA, you're giving a pallet of colors to choose from, you're giving a standard of things to do. Where this might be more open to the whim of whoever is signing off your design.

Mr. David agreed with **Ms. Waksler's** point from the perspective of doing an approval in a Quasi-Judicial hearing on what the standard is. Her reasonable concern is, if a color pallet is brought in how does the board evaluate that? He believes that this is an issue that deserves some attention.

Mr. McCormick asked at what point in a PD, if the time limits were taken out, does it get triggered to come back to the Planning and Zoning board and then to the Commissioners, for further development on that piece of property?

Mr. David informed the board that they are talking about the concept plan stage. With understanding that this is a type of preliminary approval and they would still have to come back and get final detail site plan with an approval expiration. The idea is to give the board a shot at seeing a detail plan.

Ms. Waksler comments if we want to develop residential design standards to limit a development to look a certain way, it may not be liked, but at least that would provide a standard that is looked at during the review process. People who are going through that level of detail, ought to know that they are within the standards. The way it is written now, that does not occur and that is her concern.

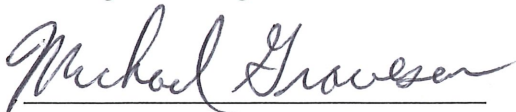
Recommendation

Mr. McCormick moved that **TLDR-20-02** be sent to the Board of County Commissioners with a recommendation of Approval, with the additional comments from the testimonies that were presented, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated April 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.

ADJOURNMENT

The meeting was adjourned at 2:52 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair