

**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**

***August 9, 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 – July 12, 2021 Regular Meeting**

The July 12, 2021 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

**PFP-21-05-03 Quasi-judicial Commission District I**

Babcock Property Holdings, L.L.C. requests Preliminary and Final Plat approval for a subdivision to be named Babcock Ranch Community, Town Center Southeast. This is a replat of Tract I-24, Babcock Ranch Community, Phase 2 A, Recorded in Plat Book 22, Pages 11A - 11J on 9/28/2017 and a replat of Tract 1-45, Babcock Ranch Community, Cypress Parkway, recorded in Plat Book 23, Pages 15A-15K on 1/29/2020. The proposed subdivision will consist of 103 single-family lots and 42 tracts. The site contains 91.06± acres, and is located southeast of Cypress Parkway, north of the Lee County line, and west of the Glades County line, within the Babcock Ranch Community Development of Regional Impact and in the East County area.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PFP-21-05-03** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

**Questions for Staff**

None offered.

**Applicant's Presentation**

**Rob Berntsson, Big W Law Firm**, accepts Mr. Cullinan as an expert and has been sworn in. Explains this is a continuation of the Babcock Ranch project of a Plat moving along. They have no objections to the conditions and are 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 **PPF-21-05-03** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions one through four based on the findings and analysis based on the staff report dated July 18, 2021, and testimony presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:34 p.m.

**PPF-21-05-04 Quasi-judicial Commission District I**

Pulte Home Company, LLC. is requesting Preliminary and Final Plat approval for a subdivision to be named, Babcock Ranch Community, Northridge. The applicant has also requested approval of a Developer's Agreement. The subject parcel is proposed to include 322 single-family units and it is to be constructed in 2 Phases. Phase 1 will consist of 164 units and Phase 2 will consist of the remaining 158 units. The site is 115.87± acres, and is located south of Bermont Road, north of Greenway Boulevard, east of Babcock Ranch Road, and west of the border with Glades County.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PPF-21-05-04** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

**Questions for Staff**

None offered.

**Applicant's Presentation**

**Rob Berntsson, Big W Law**, states he is not the attorney for this but representing Babcock Property Holdings they are supportive of this plat application, and respectfully request the board's approval.

**Public Input**

None.

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

**Questions for Staff**

**Mr. Vieira** asked **Mr. Cullinan** since there isn't a representative here for the applicant and we are applying conditions to the approval or denial, how do we handle that when there is nobody to object or agree to any conditions?

**Mr. Cullinan** answered nobody has to agree to or object to conditions. That is a decision of this board if they so choose to place conditions or not onto a petition. Typically, it is customary to ask them if they are accepting of it, but even if they are not accepting, they can just not move forward with the item.

**Recommendation**

**Mr. Vieira** moved that **PPF-21-05-04** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions one and two, based on the findings and analysis in the staff report dated July 21, 2021, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

Audio Timestamp 1:37

**SV-21-04-01**

**Legislative**

**Commission District III**

Stephen Hosman, Nancy Petree, Philip and Natalee Stutzman, Oceanglow Properties, Inc., SLH LLC, Cindy Keaser, Richard Wagner, Nancy Petree and Thomas Hosman, are requesting to vacate the western portion of the unnamed street within the plat of Delaney and Treloar's subdivision, abutting lots 2 through 10 of the unrecorded plat of Caloosa Cove. The total area to be vacated contains 0.56± acres, and it is located north of Gasparilla Drive, south of Panama Boulevard, east of Placida Road and west of Lemon Bay, in the Englewood area.

**Shaun Cullinan, Planning and Zoning Official** provided the findings and analysis for Petition **SV-21-04-01** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

**Mr. Vieira** asked do Lots 11 and 12, that are not part of this application, benefit from an approval or a denial?

**Mr. Cullinan** answered he doesn't see how they would. The areas that are looking to be vacated are areas that one would assume is already owned by the property owners but there is a little strip between them. This was a street if you will, but they have been maintaining them. The applicants have gotten together in hopes to vacate it. He doesn't see any benefit or negative benefit to 11 or 12 because they still have the same access points prior to this.

**Applicant's Presentation**

**Rob Berntsson, Big W Law Firm** he has been sworn. This application is to basically get rid of a paper street that was on an unrecorded plat. When they did the deeds, there was a Lot layout that starts at Lot 1 and goes all the way around Lot 22. When the deeds were done, they put a copy of that Lot layout and said it was Lot 8 or Lot 7. It shows in public records that the street would be there. However, it was never dedicated or constructed. Lots 11 and 12 are a business. The strip that is north of Lot 11 and 12 are owned by a separate party who did not want to join in the application. That's why they are not included, but it doesn't affect them in anyway. No utilities run through this strip. Respectfully they request their approval.

**Questions for applicant**

**Mr. Vieira** asked is this the area that the ferry goes across?

**Mr. Berntsson** answered yes, that's the ferry landing at the end.

**Mr. Vieira** commented what is happening is administrative, and it doesn't affect anybody from a physical point?

**Mr. Berntsson** replied correct, from the aerial you can't tell that this paper street exists.

There was some discussion on Lot 1 access.

**Public Input**

None offered.

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

**Recommendation**

**Mr. Bigness** moved that **SV-21-04-01** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated July 19, 2021, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.



Audio Timestamp 1:44

**PAS-21-00005**                      **Legislative**                      **Commission District I**

Pursuant to Section 163.3187 Florida Statutes, adopt a Small-scale Plan Amendment to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Low Density Residential (LDR) to Medium Density Residential (MDR), increasing density from 37 units to 74 units; for property located at 24258 Harborview Road and 4088 Oakview Drive, in the Port Charlotte area, containing 7.48± acres; Commission District I; Petition No. PAS-21-00005; Applicant: P. F. Poinciana LLC; providing an effective date.

**PD-21-00007**                      **Quasi-Judicial**                      **Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential multi-family 5 (RMF-5) to Planned Development (PD), increasing density from 37 units to 74 units, for property located at 24258 Harborview Road and 4088 Oakview Drive, in the Port Charlotte area, containing 7.48± acres; Commission District I; Petition No. PD-21-00007; Applicant: P. F. Poinciana LLC; providing an effective date.

**Jie Shao, Principal Planner** provided the findings and analysis for Petition **PAS-21-00005** with a recommendation of approval, based on the reasons stated in the staff report.

**Jie Shao, Principal Planner** provided the findings and analysis for Petition **PD-21-00007**, with a recommendation of approval with conditions A through K, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Geri Waksler, McCrory Law Firm representing P.F. Poinciana LLC**, addressed an occurrence at the last meeting about a disagreement that her and Jie had on a comprehensive plan. She admits she crossed the line and made an allegation against Ms. Shao for not personally liking the project. She wanted to make a public apology to Jie and apologized.

**Ms. Waksler** accepts Ms. Shao as a witness and has been sworn. Her client is requesting a FLUM amendment from low density residential to medium density residential and a rezoning from RMF-5 to Planned Development (PD). Several months ago, this board recommended an approval of the FLUM amendment and a rezoning to RMF-15 for this property. When it went in front of the Board of County Commissioners (BCC) they wanted to see how this high-density project would look on the site, so the applicant resubmitted for a PD rezoning. This board again recommended approval of the PD rezoning. Now, the BCC has decided that high-density is too many units and 3 members of the board suggested a resubmittal for a medium density residential. They have done exactly that. Nothing has changed from the two prior times that the board recommended approval. The site has been zoned for multi-family use since at least 1985. Its location makes it for a great site for apartment housing. The proposed use is consistent with the comprehensive plan. The multi-family use is consistent with the adjacent multi-family condominiums. The project will be served by existing water and sewer lines. A new updated traffic study is required when at the Final Detail plan approval and it will at that time be evaluated. School compacity will like wise be analyzed at Final Detail plan approval. The subject property will have fewer buildings with more mass, three buildings with more mass. Whereas the condo project has more buildings with less mass. It has been taken into account that Harbor View is likely to be widened. The widening at this location will likely take some property from this project but it has been designed to accommodate that widening, to still maintain setbacks from the buildings. The record contains an application for a land use change and rezoning supportive by analysis of the standards and professional reports supporting the conclusions. Planning staff has reviewed the request and has found that it is consistent the Comprehensive Plan and meet the requirements for rezoning. Staff has for the third time recommended approval, based on the evidence in the record she respectfully requests an approval this time for the land use change to medium-density residential and rezoning to PD.



**Public Input**

**Rita Mueller, resident at 4080 Oakview Drive,** expressed she is against of any kind of change of our Comprehensive Plan. The BCC approved the new CP 10 years ago. They called it "Charlotte 2050". Which is a document that establishes the vision of the citizens about how the County will grow in the future. She expresses to not compare this to the Tala Lake condominiums and the Mobile Homes in the area. They were built before the Charlotte 2050 and should not be compared to zoning acceptable before 2010. The CP is the vision of the people for the future of the surrounding land. She encourages it to be Low Density instead and respectfully requests for the board to deny this application.

**Lydia Rist, resident at 24437 Harborview Rd,** questions the property size mentioned on the staff report being 7.48± on the acreage. If you allow 37 units to go to 74 units why isn't the number of units being reduced if the property gets reduced by the Harborview Rd widening? How do we know if 74 units will fit with the reduced property? She also asked where will kids play if children are going to be in this apartment complex? If Harborview RD does get widened will the county reduce the number of units of 74?

**Karen Holdway, resident in Tala Lakes,** she expresses that she is not opposed to development taking place on this particular property, but she is opposed to is accommodating a specific developer that will change the demographic of our community. She would like to see the Charlotte 2050 CP remain in place. From her studies on CPs her attention is brought to the attention that one of the purposes of the CP is to protect and enhance existing neighborhoods. Zoning changes of anything more than what is already been established will have an impact on the property values one way or another. Once this change has already been put into place, whomever the developer may be, once it's completed it's done, He's finished. Those living in the community will be the ones left with the residual effects of this change. She appreciates the work that has gone into this and the people who have worked on this. She hopes they will listen to what the people in the area are asking and why it is that they've been having to protect themselves.

**Jack Cooley, resident of 24464 Riverfront Dr,** expressed residents within a mile in every direction have submitted petitions with 100s of homeowner's signatures protesting any change in zoning density. When circulating the petitions, they never encountered a single person who was in favor of increasing the density. In 2009 when he purchased his home across the street from the subject property almost the entire surrounding area was zoned Low Density. In 2010 the BCC reaffirmed their commitment to Low Density in the Charlotte Vision 2050. Which was purported to be the vision of the citizens of Charlotte County and the reassured citizens that this is way the land would be developed through the year 2050. He encourages the members to reject this request for increased density.

**Cynthia Tracewell, resident of 24239 Riverfront Dr,** comments she supports Low Density. She feels however to change from a maximum density of 37 units to 74 units is a 100% increase, which does not feel like a compromise. She feels that the study did not properly address the conflicts with Oak View Dr and the misalignment with the intersections of Rowland Dr and Manatee Loop where there will be a lot more traffic than currently on Oak View Dr. This intersection should be address currently and not after the fact. She respectfully requests the board to deny zoning to the medium density.

**Gail Athinakis, resident of 3320 Rowland Dr,** she represents the 9 homeowners who live on Rowland Dr, which is right next to the proposal, along with the congregation of the Seventh Day Adventist Church who are all 100% opposed to this project. The general consensus of the people on Rowland Dr and the Church is that the developer knew the zoning when he bought it, let him live with his decision or sell it. She encourages the developer to look into other properties for this project and to please consider the senior citizens in Tala Lakes and leave them alone.

**Judith,** resident of Tala Lakes, requests the board members to deny the position for the rezoning of the property at the corner of Harborview Rd and Oak View Dr. She expresses that the land is too small to support the plan that this developer is proposing. There is no sidewalk leading to any shopping area or recreational facilities. People



moved to Tala Lakes and the surrounding area because it is Low Density. They like their quiet neighborhood and fear that if this plan is approved it will increase the traffic enormously. She encourages the board to deny this request.

**Michael Haymens, represents several property owners in the surrounding neighborhood,** speaks on the Legislative part of the Comprehensive Land Use Plan amendment. Expresses that it does matter what the lay opinion of the neighbors is and it does matter how many people show up to express their concern about the change in the CP. The board is entitled to take that into consideration and the BCC will be entitled to take this into consideration also. With zoning, once the CP is done there's just about nothing that can be done to stop a rezoning to the approved levels within the CP. The big push here is not the PD rezoning but the CP change. He has asked the BCC to have separate hearings, so at the end of the CP presentation a decision is made. That way if the CP doesn't go forward then you won't have the hearing about the rezoning. The reason that is important is because we mix things up and look at things are not related to the CP issue. Don't be comfortable that the zoning will take care of the PD with the setbacks, etc. He reminds the board that if the CP changes and the PD gets approved but never gets built, a new owner can come in and want to build off the CP instead of the PD. The importance is you have 7.48± acres that could have some acreage taken for the widening of Harborview Rd, where would their storm water go? They say they have an easement on the lake behind them and he fears they may burden the easement too great. If this gets approved, with the widening you have a non-conforming property, which will be entitled to not only compensation for the land that gets taken but the damage to the remainder, which would have to have a variance for everything and will no longer be consistent. The county is getting set up to pay for property at a higher value with this increase of density to pay for the widening of the road. He encourages the board to deny the recommendation of approval.

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

#### Rebuttal

**Ms. Waksler** replies that the CP is meant to be a living document. It is not something that once adopted is intended to be unchanged until the next time that they do a complete overhaul. It's the reason why there are process's that have been adopted by the county for making an application to amend the CP. She expressed that she has listened to neighbors' objections but feels that it is unclear as into why they don't want it. They don't want Medium Density and want to keep it Low Density, even though many of the properties around them are developed at considerably higher density than what are allowed under Low Density residential. From their responses she heard they do not want detrimental impacts, an assumption that Multi-Family development will bring crime, noise and decreases in property values. Throughout the county, that has shown to not be the case. While she worked on the Vivante condos in the PGI area years ago, she heard the same arguments about traffic and property value. However, Marian Ave still flows just fine the property values around Marian Ave have not had impacts on property values. Apartments do not necessarily mean noise or crime. What they mean is an ability for the working people in our community to perhaps finding housing that they can afford. I ask to take into account the data and analysis and the information received and recommend an approval of the Land Use change to Medium Density residential and the rezoning to PD.

#### Comments for Staff

**Mr. Vieira** asked if Ms. Waksler could clear up where the storm water will be?

**Ms. Waksler** answered as designed right now we have a storm water pond within the property. If there is a taking of land with the widening, depending on what they take and where it's located, the storm water pond is designed slightly oversized to be reduce and still accommodate the flow. Also, there an easement for this property to drain into the large lake that it surrounds for an alternative, if the storm water cannot be used on the property.

**Mr. Vieira** commented about an email that was received prior to the meeting about the 35-foot distance away from the archaeological site. Is there an impact?



**Ms. Waksler** answered they have a buffer with a 25 ft set back with an additional setback beyond that.

**Mr. Vieira** asked if Rowland will be impacted? Is there an exit on Rowland?

**Ms. Waksler** answered for emergency access only.

#### **Discussion**

**Mr. Vieira** reminded the board of an approval for D.R Horton a few months back on a development for them to add 100+ houses, to this same area that we are talking about now. It's curious that no one from the public showed up to argue why there shouldn't be 100+ houses but have gone through a lot of attempt to deny 70 apartments to go in there. He also points out from the site plan there is an amenity area with a pool that the kids could go.

**Mr. McCormick** added that the storm water retention areas are 72 hour holding areas, they are not ponds. Therefore, kids could play there. You can see people recreating on storm water retention areas. He's in mind that there is a good faith effort on the part of the developer to accommodate a lot of the concerns regarding the intensity of use on this property. The project has changed, he thinks from cutting from 112 to 74 units is a good faith effort to deal with the objections. He is supportive of this petition.

**Mr. Bigness** comments a couple of things that he finds in interest that were brought up and things that he would ask the commissioners to consider as they review this. Is that things like traffic lights which he thinks if this goes in, he believes there will be a traffic light out there. He is very cautious to see things happen like we have on 41 in Port Charlotte, which is light after light which concerns him. Another concern for him is the widening of the road and that the citizens maybe on the hook for a higher fee because of the zoning increase of allowable units.

**Mr. Gravesen** comments as this has come before us before and we have voted to forward it with recommendation for approvals and with this reduction from 112 to 74 units you are looking at 37 more housing units from what's permitted or grandfathered in there. This is a compromise for the owner to go down to medium density for 74 units. It's going to be a busy roadway; it is already a busy roadway. You must look at the expansions that have gone on with different roads, Midway Blvd and Burnt Store Rd, you can get a feel from those for the stormwater retention that the roads have to take. We have approved this before, and this is a reduction from listening to the commissioners and the commissioners listening to the residents. He is supportive of this petition.

#### **Recommendation**

**Mr. Vieira** moved that **PAS-21-00005** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated July 29, 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; 3- yay and 1-nay (Mr. Vieira, Mr. McCormick and Mr. Gravesen voted to approve; Mr. Bigness voted against the approval).**

#### **Recommendation**

**Mr. Vieira** moved that **PD-21-00007** be sent to the Board of County Commissioners with a recommendation of Approval with conditions "A" through "K", based on the findings and analysis in the staff report dated July 29, 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; 3- yay and 1-nay (Mr. Vieira, Mr. McCormick and Mr. Gravesen voted to approve; Mr. Bigness voted against the approval).**

Audio Timestamp 2:48

**PD-21-00005**

**Quasi-Judicial**

**Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Estate 1(RE-1) to Planned Development (PD) in order to have an indoor transfer station; for a portion

of the property located at 25505 Old Landfill Road, in the Port Charlotte area, containing 15.96± acres; Commission District I; Petition No. PD-21-00005; Applicant: Southwest Waste Systems; providing an effective date.

**Jie Shao, Principal Planner**, provided the findings and analysis for Petition **PD-21-00005** with a recommendation of approval, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Rob Berntsson, Big W Law Firm**, states he has been sworn and accepts Ms. Shao as an expert and they join in the staff report and the analysis contained therein. As Ms. Shao indicated this property was a former landfill and redevelopment of it was contemplated it would be a light industrial type uses. They had to come in through the PD zoning process. Waste Management has moved their property just north of this site. His client has operated indoor transfer stations in various of locations, one being in Ft. Myers. He explains that Ms. Shao and he have gone over the conditions and he's in agreement with them all. He just has one question for Ms. Shao; on condition "G" does that exclude a sign with the name of the business?

**Ms. Shao** responded the sign is subject to 3-995, signage. You are ok to have signage.

**Mr. Berntsson** suggested to take out the word "only" for it to say, "internal circulation and identification signs as well as security signs are permitted etc.." he wants to make sure they can have a sign for the business.

**Mr. Berntsson** stated he is happy to answer any questions. The site plan has been designed the southern 200ft is the storm water retention area, it buffers even further in addition to the 8-foot landscaped wall. With the physicality even further from that.

**Public Input**

None offered.

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

**Recommendation**

**Mr. Vieira** moved that **PD-21-00005** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions "A" through "O" and the changes discussed on condition "G", based on the findings and analysis in the staff report dated July 28, 2021, Charlotte County Comprehensive Plan and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Bigness**; and carried by a unanimous vote.

**ADJOURNMENT**

The meeting was adjourned at 2:59 p.m.

Accepted on behalf of the Charlotte County  
Planning and Zoning Board



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Michael Gravesen, Chair