

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
Clint Baker



District

District V
District III
District I
District II
District IV

MINUTES

REGULAR MEETING

April 10th, 2023, 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 – March 13th, 2023, Regular Meeting

The March 13th, 2023, minutes were approved as circulated.

Announcements

Shaun Cullinan, Planning & Zoning Official, announced that item number 3 has been removed from the agenda.

Mr. Gravesen asked if it was delayed, or will it come back some other time?

Mr. Cullinan responded it is delayed.

PETITIONS

1.) PP-22-12-25

Quasi-judicial

Commission District II

D.R. Horton, Inc. is requesting Preliminary Plat approval for a subdivision to be named Shell Oaks, consisting of 110 single-family lots and 11 tracts. The site contains 40.24± acres and is generally located north of Bermont Road, south of Arrowhead Circle, west of Quail Drive, and east of Duncan Road, within the East County area and in Commission District II.

Jenny Shao, Project Coordinator, provided the findings and analysis for Petition **PP-22-12-25** is consistent the County's Comprehensive Plan and the County's code of laws and ordinances and other applicable guidelines.

Questions for Staff

None offered.

Applicant's Presentation

Derek Rooney, Grey Robinson Law Firm on behalf of applicant, he accepts Ms. Shao as an expert and agrees with staff recommendations. Representatives from D. R. Horton as well as the project engineer are here to answer any questions. He accepts the conditions and informs the board with an update on one of the conditions already being met; street names have been issued.

Public Input

Scott Moors, lives in the area, shared his concerns for irrigation. He currently has irrigation problems and is concern this will increase the issue. He inquired where and who does he need to address these issues too? **Mr. Gravesen** replied to talk to **Mr. Rooney**.

Citizen number 2, lives in the area, shared his concerns for the water main. He asked how are they going to run water to this project? He's concerned that they are going to go through his property. **Mr. Gravesen** informed him that we are just talking about the plat at this time and that if he has any questions to speak to **Mr. Rooney**.

Karen Pedra, lives in the area, inquired if there will be a plant buffer separating this development and her back yard. **Mr. Cullinan** commented that it does appear that they are putting in a tract separating, but there is no required for planting of said buffering. It is their decision on the type of buffer. She was informed to reach out to **Mr. Rooney** for any detail information.

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

Rebuttal

Mr. Rooney commented that he will speak to each of the property owners separately. The Preliminary discussion plan at this point is the canal conveyance that is to be relocated. That will go in a portion of that vacant common strip and the utilities will be coming up from Bermont Rd.

Recommendation

Mr. McCormick moved that **PP-22-12-25** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated January 19, 2023, 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.

2.) PP-22-12-26

Quasi-judicial

Commission District III

Lennar Homes, LLC is requesting Preliminary Plat approval for a subdivision to be named Harbor East, consisting of 82 single-family lots and six tracts. The site contains 31.06± acres and is generally located north of Tate Waterway, southwest of Interceptor Lagoon, and east of Aquarius Waterway, within the Port Charlotte area and in Commission District III.

Jenny Shao, Project Coordinator, provided the findings and analysis for Petition **PP-22-12-26** is consistent the County's Comprehensive Plan and the County's code of laws and ordinances and other applicable guidelines.

Questions for Staff

None offered.

Applicant's Presentation

Rob Berntsson representing the applicant, comments she accepts Ms. Shao as an expert and accepts all the conditions that were presented. He has the project engineer present to answer any questions.

Questions for Applicant

None offered.

Public Input

Jim Krouse, lives on Spanish Point Dr, comments that he has been shown plans that there is an easement that is being asked by the developer for a watermain to go from Spanish Point Dr over across the canal and into this development. The easement is shown between his and his neighbor's property and neither have given permission for the watermain to be placed. Which the easement is not shown on his plot maps. **Mr. Berntsson** responded

that Charlotte County Utilities (CCU) had wanted that, but they have no illegal means to get that crossing. The utility line will be coming through the existing easements, not through Spanish Point Dr.

John Osawitch, lives on Margo Cir., inquired of the properties along the waterfront line, near the "S" turn. The "S" turn is very dangerous for boating and has a significant number of Mangroves along that stretch. He wants to make sure if they are going to put in docks, to be more consistent with the conservation in the environmental area; the fish and environment is suffering.

David Campbell, talks about the erosion of taking out of the mangroves. He opposes this because it will create a lot of water traffic.

Joseph Anderson, lives in area, spoke about having one access road to 82 lots and how dangerous it is. The blind curve also is an issue and should be recreated.

Adriana Beaton, lives in area, expressed with having one access road will create traffic problems and problems for the residents.

Todd Loly, lives in area, explained that there will be a lot of habitats lost because this area is there nesting ground. He suggests for a green space to be incorporated in the development for the animals.

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

Rebuttal

Ms. Berntsson commented that all of the concerns that have been raised have been reviewed by county staff and they meet all of the requirements of the county codes. Any construction is done pursuant to the permitting for this project along with any of the docks.

Questions

Mr. Baker commented that the gentleman mentioned green space, is that going to be green space in the center?

Mr. Berntsson responded it will be a lake.

Mr. Bigness asked if the homes off of Spanish Point is a Lennar development? **Mr. Berntsson** replied yes. **Mr. Bigness** inquired about the drainage, is it all going in the center lake or the back and the front of the property?

Mr. Berntsson responded it will be in the accordance of the SWIFT mud permitting and the county storm water permitting.

Mr. Bigness mentioned of an email submitted as public comment mentioning the mangroves. **Mr. Cullinan** responded that they received a code enforcement complaint, about a year ago now, for the Harbor West portion. Staff investigated along with FDEP and other state agencies, we have no authorization statutorily to permit or enforce any mangroves. That defaults to the state agencies, which they have investigated and taken any action that is necessary.

Mr. Baker inquired when do they have to submit their drainage plan? **Mr. Cullinan** explained that the construction plan with all of the full engineering comes at the next step. It goes, Preliminary Site Plan, Preliminary Plat, Final Site Plan and Final Plat. Final Site Plan is where all the nuts and bolts are reviewed by staff.

Mr. Bigness inquired how is this stopping developers from buying large parcels where they dig a lake and use that for fill? **Mr. Cullinan** replied there are standards and exemptions withing in our Land Earth Moving code, this is for fill for their site. If there is extra, they are within their rights to sell that off. However, this is very common. Modern subdivisions dig lakes and use the fill to build the grading pad and if there is some left over, they have to

get rid of it somehow. In his professional opinion this is the necessary site work needed to do a residential development.

Recommendation

Mr. Bigness moved that **PP-22-12-26** be sent to the Board of County Commissioners with a recommendation of denial, based on the findings and analysis in the staff report dated January 23rd, 2023, Charlotte county's comprehensive plan and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Baker**; the motion failed 2 yay - (Mr. Baker and Mr. Bigness) -3 nay - (Mr. McCormick, Mr. Vieira, Mr. Gravesen)

Mr. Vieira moved that **PP-22-12-26** be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the staff report dated January 23rd, 2023, 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**; the motion passed with a 3 yay- (Mr. McCormick, Mr. Vieira, Mr. Gravesen) -2 nay (Mr. Baker and Mr. Bigness)

3.) PAS-22-00011

Legislative

Commission District III

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 Commercial (COM), for property located at 14333 Appleton Boulevard, in the South Gulf Cove area, containing 2.985± acres; Commission District III; Petition No. PAS-22-00011; Applicant: American Prime, LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **PAS-22-00011** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

Mr. Baker asked if they get the zoning amendment change request, they could build mini warehouses? **Ms. Shao** replied if the board approves the land use change to commercial, mini warehouses are allowed under the CG zoning. They would need to go through site plan review process.

Mr. Vieira commented about the mention of commercial development along Appleton, asked how close is commercial development to this site, and what it is? **Ms. Shao** responded that she stated there is commercial and there is property that are zoned commercial. They are located approximately 1.2 miles to the east along Gasparilla Rd.

Mr. Cullinan commented that there are about 9 properties within the South Gulf Cove area, these pocket neighborhood commercials. They are common in general developments with the intent is to put a little plaza to get haircuts, or ice cream for example.

Mr. Bigness inquired that this came about due to the density units that the owner was able to get? **Ms. Shao** mentions the comp plan which states if you have inconsistency, which is for this case, you have low density residential and commercial zoning. There is inconsistency. For the base density you have base density to 1 unit per acre. As mentioned, they could come to apply for the rezoning to RE-1.

Applicant's Presentation

Rob Berntsson representing the applicant, accepts Ms. Shao as an expert and concurs in her findings in her staff report. As indicated, this is a 2.9 acres site, all that could be developed there are two single family homes. Back in 1988 when our first Comprehensive Plan (CP) was adopted to implement the zoning. What the zoning was is what went into the CP. Under the 1988 plan this was a commercially designated site. Somewhere along the line in one of the amendments of the CP it got changed to no longer being commercial, but the zoning remained commercial. The problem now with the TDU ordinance is that you can't transfer density to this site. You don't want everyone

to have to go out to the main road every time they need goods or services, you want to have internal neighborhood commercial nodes to help keep some of the traffic off the road and for people to be able to bike and walk to the locations. That was plan from this site from the original subdivision of the property and it's certainly keeping with the needs of the community to provide local goods and services. With that we join with the county's staff report and respectfully request your recommendation of approval.

Questions

Mr. Baker asked if there would be any restrictions as to what they could put there or what they could not put there? When we go this route there still wide open as into what they can build, would they be open to restrictions to what they can put in? **Mr. Berntsson** responded that his client to sell the property, they are not the end user of it. They can't market it under its current conditions.

Public Input

Patricia Wells, lives in area, expresses concern for the unknown of what this will be. She knows it will bring lights to her neighborhood and will chase away the habitat in the area. She lives in this area because there isn't much development and is very concerned that this could ruin the calmness in her neighborhood. She is not in favor of a neighborhood commercial development; she is ok with her current commute to a Publix or any commercial development.

Adriana Beaton, lives in area, expresses her concern that a shop opened 24/7 would be placed here which will bring in more traffic. She also expressed that the sidewalk is on the other side of Appleton so no one could really walk to this unless they cross the congested road. They do not need a commercial development area there. Instead, it could go in an already designated area that is zoned commercial. She is against this and would like the county to listen to the people that live here and not a developer.

Paula Rush, lives in the area, elaborated that the sidewalk is on the other side and there is a school bus stop right in front of this development. There is also a bridge on Appleton that is slighted right now to be rebuilt because someone got injured on that bridge. The last thing needed is more traffic. The owner just bought this to make money by changing the zoning to commercial. Property value will go down because of this. This is a safety issue, a detriment to our community not an asset and no one wants this here. She encourages the board to decline this and to keep it the current zoning.

Mike Reed, lives on Sunday Dr, Comments this is a beautiful neighborhood, this becoming commercial will bring light pollution and destroy habitat. He doesn't believe there is demand in South Gulf Cove to have to go anywhere closer than Publix to get a loaf of bread. We do not need more light, traffic, and noise pollution. He urges the board to vote against this.

Bill Chelius, lives on Fitchburg Ter, comments his property line is very close to this corner of this commercial property line which he will have to stare at while he's in his backyard. There is a lot of habitats that will be misplaced if this turns into commercial and thinks it should stay residential.

Brian Brewer, lives on Ft. Myers Ave, comments that he agrees with what everyone is saying and is opposed to this becoming a commercial business of anything right in the middle of the residential area.

Joseph Anderson, lives on Montmarte Ave, comments that he lives 360 ft from this proposed property. He mentions that there are Scrub Jay's and other birds that would be affected. He urges the board to have solid plans presented to them before any changes are made. We don't want to open it to a convenient store or any type of gas station.

David Campbell, lives in the area, comments that the traffic is horrendous that he has to normally wait on traffic just to get out of his driveway. Somethings like this being placed in the area ruins the ambiance of the whole

neighborhood. He understands that in 2002 this property was Commercial and plus a property across the street where homes are being built, that was also Commercial. He urges the board to vote against this.

John Osawitsch, HOA board member for South Gulf Cove, suggest to the board for them to place a recommendation to limit the type of commercial if it does become commercial. Also, before any decision is made a safety study of the traffic should be done and the bridgeway needs to be modified.

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

Rebuttal

Ms. Berntsson commented most of the testimonies heard is the reason for this location to be placed in neighborhoods. Everyone said that they could just go to Publix, that means that all those people are traveling on Appleton to get there and also traveling on Gasparillia Rd to get to Publix. When the idea of a Neighborhood Commercial is to capture some of that traffic. This site is only 2.9 acres, it's not a shopping center site. Publix sites are 20-30 acres in sight, no one is suggesting for a Publix to be placed. Also, commercial development goes where it can be supported. A 7/11 is not going to be placed in the middle of a neighborhood because there is not enough traffic. What you do get is a neighborhood commercial, that can serve the neighborhood goods and services. So Yes, a bar could go in there. However, that's the last place that bar owner is going to put an establishment. What you are going to have is a low intensity commercial use to serve the neighborhood. Biased on that he requests the board's approval of the application.

Question

Mr. McCormick asked the high density, RM-10, those lots are they proposed lots? Or are they actually buildings?

Mr. Berntsson replied they are platted lots with two homes. They could have duplexes on there.

Discussion

Mr. Bigness expressed that he is having difficulty supporting that. Based on what he's seeing here; request a zoning change in a residential neighborhood to add commercial. With people living there and have bought there with it not being that way. The uncertainty of what could go in there could be worrisome.

Mr. Cullinan commented that it has been said by many of the speakers and Mr. Bigness this is not a zoning change. The zoning is Commercial General (CG). The zoning has always been CG, it's the Future Land Use Map designation (FLUM) that is making the inconsistency. This issue is the FLUM designation amendment not a rezone.

Asst. County attorney Thomas David, added your decision here is Legislative, it's your broadest authority. All that has to be is a fairly debatable question. It's the least restrictive determination of level of review that you have. On a scale a Plat is your least amount of wiggle room – this is most room to maneuver is on a Legislative change like this.

Mr. Berntsson added that they can not add density to the site because of the manage neighborhood. We would have Residential Estate (RE) which is one unit per acre. Which is clearly not an appropriate space for an RE. **Asst. County Attorney David** commented that the testimony from the applicant council is that their would be use allowed on that property, 2 units.

Mr. Bigness asked if it's zoned commercial, then why even have this debate? **Asst. County Attorney David** replied because under Florida's regulatory program, Chapter 163, your zoning has to be consistent with your Land Use, which in this case is for residential and the zoning is for commercial. They must be consistent one way or the other, either the zoning has to be changed to residential or the land use has to be changed to commercial. The decision that is being made here is on the land use question, that's all they are applying for. He tried to explain the latitude you have as far as what your decision-making is.

Mr. Gravesen asked **Ms. Shao** in your report has the detail of where the changes occurred over the iterations of the Comprehensive Plan (CP)? He understands from the representative that this began as Commercial zoning and Commercial Land Use and the Land Use designation was changed to residential to match the neighborhood.

Asst. County Attorney David replied it is on page two of her staff report, right between the two photos.

Mr. Gravesen commented that in 97' it changed but before 97' it was agreeing as CG and a Commercial Land Use.

Mr. Gravesen commented it that a lot of the public comments were confused between the FLUM and the zoning designations. Most people look at the zoning map to see what's being built around them, they don't go looking at the Land Use map. So this is coming up as a correction of a discrepancy that somewhere in 97' was flipped. The 1997 change was a broad stroke across the entire county. It wasn't individual lots address. The property owner is requesting that the correction be by changing the Land Use back to what it was 20 years ago.

There was discussion about the zoning and land use of the property.

Mr. Vieira commented that he agrees with **Mr. Bigness** he actually lives in an area that has a similar condition that we are talking about. It's a 2-acre piece of land that does have a cc store on it. By the time it was built it turned out to be a small development, but great for the neighborhood. You don't have to get out on the main road and you don't have to travel far to go the grocery store, I see it as a benefit and feels that he can support this.

Mr. Bigness asked **Mr. Cullinan** is there any way that it could go back to residential and somehow get some density units? **Mr. Cullinan** our incentive density program it is very strictly enforced because being a neighborhood we don't want to increase that. Again, this the choice that the applicant made to move forward to correct a discrepancy. That's up to you, we don't typically, unless it's during a Large Scale Planned amendment or what was done in 2014. We don't go onto individual pieces of property unless its part of a large scale, where we are looking at the entire county.

Recommendation

Mr. Bigness moved that PAS-22-00011 be sent to the Board of County Commissioners with a recommendation of denial, based on the findings and analysis in the staff report dated March 20th, 2023, Charlotte county's comprehensive plan and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Baker**; the motion failed 2 yay - (Mr. Baker and Mr. Bigness) -3 nay - (Mr. McCormick, Mr. Vieira, Mr. Gravesen)

Mr. Vieira moved that PAS-22-00011 be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the staff report dated March 20th, 2023, 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**; the motion passed with a 3 yay- (Mr. McCormick, Mr. Vieira, Mr. Gravesen) -2 nay (Mr. Baker and Mr. Bigness)

2:56:11

4.) 22LAD-00000-00004

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 and recodifying the Master Development Order (MDO) for the Babcock Ranch Community Master Development of Regional Impact (DRI), Resolution Number 2021-108, to: 1) revise "Whereas Clauses" to reflect the current status; 2) amend "Findings of Fact and Conclusions of Law" to

rename and clarify the category of ancillary facilities and to add language to clarify the maximum development rights of each development category threshold per use of a Land Use Equivalency Matrix; 3) revise the Affordable Housing section, Conditions 3.A.(1) through (4), and Conditions 3.A.(6) through (9), to replace affordable housing with workforce housing; 4) update the Stormwater Management and Flood Plains section by revising Condition 4.B.(1), to acknowledge platted easements or tracts, 4.B.(14) to reflect current permit approvals, Condition 4.B.(15) to describe State assumption of Section 404 permitting by the Florida Department of Environmental Protection (FDEP), and Condition 4.B.(16) to recognize that condition is completed; 5) revise the Transportation section and Exhibits "F", "J" and "K"; and add Exhibit "G": Babcock Ranch DRI Cumulative Incremental Transportation Conditions to reflect the cumulative Babcock Ranch Traffic conditions; 6) revise the Vegetation, Wildlife, and Wetlands section, Condition 6.B.(5) to include FDEP State 404 Permit and reflect other updated State permits; 7) update the Wastewater Management and Water Supply section by revising Condition 7.A.(9) to include educational facilities located within the greenways; 8) revise the Education section, Condition 9.A., to reflect compliance with Babcock Ranch School Site Dedication Agreement; 9) update the Police and Fire section by amending Condition 10.B.(6) to reflect completed projects; 10) revise the Hurricane Preparedness section by amending Condition 13.A. to remove reference to American Red Cross publication #4496; 11) update the Hospitals and Healthcare section to delete Condition 15.C., which includes a requirement to provide a certificate of need, as State Statutes have been amended to eliminate such a requirement; 12) update Buildout and Expiration Dates of this Development Order (DO); 13) revise this DO for internal and statutory consistency and to reflect updates to Florida Statutes, as applicable; 14) update Exhibit "B": Master Concept Plan (Map H) to be consistent with approved entitlements and to include new Increment 3 area, overall greenway and conservation easements amended to be consistent with FDEP and South Florida Water Management (SFWMD) permitted plans, and roadway configurations that have been updated to reflect built conditions; 15) update Exhibit "D": Updated Summary of Land Dedications and Facilities Construction by amending Note# 5 to allow the co-location of the helicopter landing site and the mosquito control pre-fab building, reflecting the completion of the EMS vehicle, and removing the school requirements as those are set forth in the School Site Dedication Agreement; and 16) add new Exhibit "H": MDO Land Use Equivalency Matrix (LUEM); 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. 22LAD-00000-00004; Applicant: Babcock Property Holdings, LLC; providing an effective date.

5.) 22LAD-00000-00005 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 and recodifying the Increment 1 Development Order (IDO), Resolution Number 2020-070, for the Babcock Ranch Community Development of Regional Impact (DRI) to: 1) revise development rights by increasing residential dwelling units from 5,000 to 5,056 units; removing 600 hotel rooms; decreasing retail from 870,000 to 470,000 square feet; increasing office from 350,000 to 370,000 square feet; adding 200,000 square feet of industrial; increasing units of assisted living facilities from 100 to 218 units; and updating supporting community facilities to include clubhouses and similar neighborhood amenities 2) remove the reference to the maximum density requirement, as it is already established in the Master Development Order (MDO); 3) amend the Stormwater Management, Water Quality, and Flood Plains section by deleting Conditions 3.A.(3) and 3.A.(4) in order to maintain consistency across increments, and updating Condition 3.A.(6) to add the South Florida Water Management (SFWMD) permit number; 4) amend the Transportation section, Condition 4., to remove specific site-related improvements, Exhibits "J" and "K" and instead refer to Exhibit "G" of the MDO for the Cumulative Incremental Transportation Conditions; 5) update the Vegetation, Wildlife and Wetlands section by revising and renumbering Conditions 5.A.(1) through 5.A.(8) to recognize Florida Department of Environmental Protection (FDEP) assumption of federal wetland permitting and update permit numbers; 6) revise the Wastewater Management and Water Supply section by updating Condition 6.A.(6) to be consistent with SFWMD approved permits; 7) revise the Education section, Condition 7.A.(2), to reflect compliance with Babcock Ranch School Site Dedication Agreement; 8) update the Police and Fire section, Condition 8.A.(1),

to reflect completed projects; 9) revise the Open Space and Parks section by deleting the mini parks requirement established in Condition 10.A.(8) to be consistent with Exhibit "D" in the MDO; 10) update the Mining Operations section by deleting Condition 12.A.(1) to reflect that mining operations have ceased; 11) reflect the extension of the expiration date and buildout date of this Increment Development Order (IDO) per Governor's Executive Orders; 12) remove Exhibit "C": Babcock Ranch Community Increment 1 Equivalency Matrix; 13) update Exhibit "B-2" to reflect updated entitlements, change in park area, greenway areas changed from active to passive, and roadway configuration changes to reflect the built environment, and Exhibits "B-4", "F", "H1", "H2", and "I" to be consistent with permitted Conservation Easements and Greenway configurations and designations, and updates roadway alignments; 14) update Exhibit "D": Updated Summary of Land Dedications and Facilities Construction to be consistent with the MDO; 15) amend Exhibit "E": Babcock Ranch Community Increment 1 Parameters to be consistent with the revised development parameters; and 16) update this IDO for other changes for internal and statutory consistency; 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 5,095.35± acres, in the East County area; Commission District 1; Petition No. 22LAD-00000-00005; Applicant: Babcock Property Holdings, LLC; providing an effective date.

6.) 22LAD-00000-00006

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 and recodifying the Increment 2 Development Order (IDO), Resolution Number 2021-109, for the Babcock Ranch Community Development of Regional Impact (DRI) to: 1) remove two Whereas clauses; 2) revise development rights by increasing residential dwelling units from 6,457 to 9,252 units (single-family from 4,434 to 5,817 units and multi-family from 2,023 to 3,435 units); adding 600 hotel rooms; increasing retail from 297,250 to 730,000 square feet; decreasing office from 727,750 to 650,000 square feet; removing 200,000 square feet of industrial and 75,000 square feet of ancillary community uses, and increasing units of assisted living facilities from 100 to 200 units, 3) amend the Stormwater Management, Water Quality, and Flood Plains section by revising Condition 3.A.(4) to reflect the current permit information; 4) amend the Transportation section, Condition 4, to remove specific site-related improvements, Exhibit "J", Exhibit "K" and instead refer to Exhibit "G" of the Master Development Order (MDO) for the Cumulative Incremental Transportation Conditions; 5) update the Vegetation, Wildlife and Wetlands section by revising Conditions 5.A.(1), A.(2), and A.(3) to reflect new permits and update permit numbers; 6) revise the Education section, Condition 7.A.(2), to reflect compliance with Babcock Ranch School Site Dedication Agreement; 7) reflect the extension of the expiration date and buildout date of this Increment Development Order (IDO); 8) remove Exhibit "C": Babcock Ranch Community Increment 2 Equivalency Matrix; 9) update Exhibit "B" to reflect updated entitlements, decrease observation greenway areas and concurrently increase active greenway areas, and reduce areas for Mixed Use/Residential/Commercial, Exhibit "F" to update the base map to reflect new roadway configurations, Exhibits "G" and "H" to update the base map to reflect new roadway configurations, and to revise observation and active greenway areas to be consistent with Florida Department of Environmental Protection (FDEP) and South Florida Water Management (SFWMD) permitted plans, and Exhibit "I" to be consistent with permitted Conservation Easements and Greenway configurations and designations, and updates to roadway alignments; 10) update Exhibit "D": Updated Summary of Land Dedications and Facilities Construction to be consistent with the MDO; 11) amend Exhibit "E": Babcock Ranch Community Increment 2 Parameters to be consistent with revised development parameters; and 12) update this IDO for other changes for internal and statutory consistency; 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. 22LAD-00000-00006; Applicant: Babcock Property Holdings, LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **22LAD-00000-00004** 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 **22LAD-00000-00005** 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 **22LAD-00000-00006** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

Rob Bertsson representing the applicant, has members of the development team with him for any questions. He has been sworn in. He thanks county staff for the amount of work that has gone into this. They have worked with various of agencies through the RPC as well as the county staff to get to this point. This really started because we are bringing Increment 3 in but at the same time, we wanted to clean everything else up. We join in her staff report.

Public Input

Jackie Clemons, lives on ST RD 31, shared her concerns for the retention ponds. She expressed when they dug the pond in Babcock Ranch, her water pressure dropped. When the retention ponds were dug up her water pressure dropped again. She is concerned with them building more she will no longer have water. She also is concerned for the road; the condition of the road is poor, and the traffic is bad. She expressed until the road is improved, they should stop building.

Mr. Bigness asked **Ms. Clemons** if she was on a well? She replied yes.

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

Discussion

Mr. Vieira commented for clarification he asked for a list of the development rights could be placed back on the screen; we're not adding to the development order, we are doing housekeeping at this point for the most part correct? Where we are moving some uses from one phase to another phase, correct? **Mr. Bertsson** replied yes. The master has the overall development that you can have. Each increment has what development is permitted per that increment and this is shifting some of that from 1 to 2; 2 to 1. Increment 3 will be coming on as well. That's based on the studies that have been done, we do not have all the development approved from the master in the increments yet. We do that incrementally. This is not the last time you are going to see it, there will still be changes that come in over time as we tweak each increment and fine tune it. We are working with FDOT on the widening of ST RD 31, FDOT is working on studies and is well under way for widening. The lakes that **Ms. Clemons** was talking about were the mining lakes before Babcock Ranch started. There was mining operations out there 30-40 years or so, which we have ceased mining operations.

Mr. Cullinan asked **Mr. Bertsson** a question; the road widening of ST RD 31 that's with the existing Right Of Way (ROW) and any additional is completely on the Babcock Ranch side of the road, correct? **Mr. Bertsson** replied that is correct. **Mr. Cullinan** commented that Babcock Ranch is dedicating a significant amount of land for that widening process so that there will be no takings on the other side of ST RD 31. **Asst. County Attorney David** commented that for the boards information, we do inquire of the road widening at every monthly meeting the county staff has with Babcock Ranch.

Mr. Vieira inquired is that a state mandate requirement? Is it a developer contribution, correct for the widening of ST RD 31? **Mr. Berntsson** replied it's the proportion of share from the impacts that the development has the monies being funneled in for widening. That's been review through FDOT, Charlotte County transportation and all the agencies.

Recommendation

Mr. Vieira moved that **22LAD-00000-00004**, be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the Board memo dated March 24, 2023, 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.

Recommendation

Mr. Vieira moved to submit, **22LAD-00000-00005**, be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the Board memo dated March 24, 2023, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. McCormick**; with and carried by a unanimous vote

Recommendation

Mr. Vieira moved to submit, **22LAD-00000-00006**, be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the Board memo dated March 24, 2023, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. McCormick**; with and carried by a unanimous vote

7.) DRI-22-04-17

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, for approval of an incremental development order for the Babcock Ranch Community, called Babcock Ranch Community Increment 3 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 4,535± acres, in the East County area; Commission District I, Petition No. DRI-22-04-17 Applicant: Babcock Property Holdings, LLC, providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **DRI-22-04-17** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

Rob Berntsson representing the applicant, has members of the development team with him for any questions. He has been sworn in and joins in Ms. Shaos staff report for increment 3, as indicated this will be the last increment. As indicated earlier you will probably see amendments to each of the increments as we move forward as the project develops.

Mr. McCormick commented that one of the slides showed that the mitigation of water was going to be outside the increment 3 area; asked what's going on and where's the outside of increment 3 area? **Mr. Berntsson** replied it's going to be within the overall DRI project, but it may not be within increment 3 itself. Which would be in either Increment 1 or increment 2.

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Public Input

None offered.

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

Recommendation

Mr. Vieira moved to submit, **DRI-22-04-17**, to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report March 24, 2023, 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**; with and carried by a unanimous vote

ADJOURNMENT

The meeting was adjourned at 3:47 p.m.

Accepted on behalf of the Charlotte County

Planning and Zoning Board



Michael Gravesen, Chair