

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

February 12, 2024, 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. Steve Vieira was absent.

Approval of Minutes – January 8, 2024 Regular Meeting

The January 8, 2024, minutes were approved as circulated.

Announcements

None offered.

PETITIONS

1.) SV-23-11-07

Legislative

Commission District II

Jeffrey M. Devine is requesting to vacate the unnamed 15-foot alleyway lying between Lots A through G and the remainder of Lot 1, Block 29, Holyman's Subdivision, as recorded in Plat Book 1, Page 22, of the Public Records of Charlotte County, Florida. The total area to be vacated contains 3,123± square feet and is generally located north and parallel to Cleveland Avenue (Ave), north and perpendicular to Beechwood Street, south of Riverside Drive and parallel to Griffith Ave, within the Punta Gorda area and located in Commission District II.

Jenny Shao, Project Coordinator, provided the findings and analysis for Petition **SV-23-11-07** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick asked if the vacation will affect the Kevin and Marjorie Roberts property as well correct?

Ms. Shao responded that a letter of no objection was provided from the property owners.

Applicant's Presentation

Jeffrey M. Devine the applicant, explains that his property along with the neighbor's property already have existing development from 1972. All he's trying to do is add an additional slab to extend the pool patio. As late as 2020, a permit was issued for the property for some additional concrete underneath the carport. This is not a new issue, this is trying to resolve a pervious issue that was missed somewhere along the line. In his application, he has also asked for the fee to be waived. Since this clarifies an outstanding issue from multiple properties that's been in existence for over 50 years.

Public Input

None offered.

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

Discussion

Mr. Gravesen agrees with the staff to vacate this. He would like to recommend to the commissioners that they would consider waiving the fee. Since it is unknown for where the error happened.

Shaun Cullinan, Planning and Zoning Official, explained that the Roberts home was built in 1950 and Mr. Devine’s was built in 1972. These houses can continue as they have been. They are legally non-conforming. This customer is looking to do some more things to his property and with that as far as county is concerned, he can continue with the house in its current configuration. However, he wants to do more work. In which it’s subject to him to be the one to vacate the alleyway.

Mr. Gravesen as of the report it is unclear as to what happened here, whether it was vacated or not. It was transferred from DeSoto County because of this very old plate. It’s one of those issues where the county has those houses that are in non-conforming use that means it was in violation when it was built the way interpret it. I’m just recommending the commissioners consider waving or rebating the fee to vacate. It seems to be an old issue that’s been carried forward. I would ask for a separate motion if all agrees.

Mr. Bigness asked how that occurred in the first place, does it show up on a survey?

Mr. Cullinan replied we have a survey from more recent work where it doesn’t define the alleyway it shows 15 ft easement. With respect to how did this happen originally; we can’t prove or disprove that what was permitted didn’t meet the standards of the times of 1950 and 1972, respectfully. Again, while we understand your motion the rebating; again, because we can’t approve or disprove that something was not permitted properly before under other regulations. Maybe there was an encroachment that was allowed at some point but in order for him to continue to do new things on to the property; it would need to be vacated.

Asst. County Attorney, Thomas David commented to the chair that there’s nothing in the rules that prohibit you from recommending that the board wave the fees.

Recommendation

Mr. McCormick moved that **SV-23-11-07** 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 22, 2024, Charlotte County Comprehensive Plan along with the evidence presented at today’s meeting, second by **Mr. Baker**; and carried by a unanimous vote.

Recommendation

Mr. McCormick moved that **SV-23-11-07** be sent to the Board of County Commissioners with a recommendation of waving the fees involved, second by **Mr. Baker**; and carried by a unanimous vote.

2.) PD-23-00006

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 a storage yard for Phase 1 and contractor’s yards in Phase 2, for property located at 25495 Old Landfill Road, in the Port Charlotte area, containing 33.74± acres; Commission District I; Petition No. PD-23-00006; Applicant: 33 Acres Old Landfill Road LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **PD-23-00006** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick asked the buffer we are talking about would be from the fence near the 3 ponds? So, there would be no construction within 50 ft of the ponds?

Ms. Shao replied there is a double buffer. There's a Type A buffer on southern property, then you have storm water and between the storm water and the developable area, which will be outdoor storage, so theirs is 20 ft in width and 8ft tall opaque fence the Type D buffer is required, this same type buffer will be in the west portion as well.

Applicant's Presentation

Robert Berntsson, Big W. Law Firm, representing the applicant, he has been sworn in and excepts Ms. Shao as an expert. As Ms. Shao indicated this is the old landfill. Many years ago at the time general development used this as a waste facility as they were developing Port Charlotte. In 2008, the Board of County Commissioners did designate the entire site as industrial. As Ms. Shao went through theirs recently been approved an indoor transfer station. Another outside storage facility and Waste Management also has their operations within this PD. As indicated the land use designation requires that any development of the property be by a PD rezoning, so that appropriate safeguards and conditions can be placed on the rezoning. His client in phase 1 will construct 3 storage ponds into the rear of the property. That is located adjacent to the developed residential properties to the south and to the west. Those ponds will serve both the outside storage for phase 1 and ultimately the contractor yards for phase 2. The contractor yards the smallest building is to the west and the buildings get larger in size as you move to the east. The development has been conditioned with the appropriate conditions to provide protections to the neighbors. There is a Type D buffer, which is the counties most intense buffer with an 8 ft opaque wall. Typically, 6 ft is the height. However, we have agreed to an 8 ft wall that will run down the rear of the storage area, the west side of the storage area and the front of the storage area. I know there is a number of people here in opposition, but this property has been a former land fill and has been designated as Industrial Lands since 2008. It's slowing been developing since that time and we respectfully request that you approve it. There are conditions "a" through "m", we have agreed to all of those conditions that will provide safeguards to the surrounding properties. I will reserve additional time for rebuttal. I'm happy to answer any questions you might have.

Mr. Gravesen asked the audience for anyone who will be speaking in this petition will need to be sworn in. At this point please stand and take the oath.

Secretary Bennett sworn in the audience.

Mr. Gravesen asked **Mr. David** if he can give a brief description of what a Quasi-Judicial hearing involves.

Asst. County Attorney Thomas David, commented that the Quasi-Judicial standard is the standards of fact-based standards. This board is taking up a Quasi-Judicial matter that means that all the interested persons have a right to be heard and present evidence. This board has no authority to change zoning regulations, all it does is recommend to the board of County Commissioners. Decisions on the board on a Quasi-Judicial must be based on the evidence presented to it. Only competent substantial sworn factual evidence and expert opinions offered and accepted may be properly considered. All documentation presented to the board or county staff will be retained as part of the official record of the proceedings. Quasi-Judicial is a factual basis, opinion is weighed in the sense that if you believe the opinion has a factual content to it you can weigh it. Factual or expert opinions have to be based on expert credentials.

Mr. Gravesen commented that he wanted the public to know what some standards are that need to be met when a presentation is made. We allow 5 minutes per person, the 1st person please identify yourself.

Public Input

Lori Price, lives in Lakes Edge, commented that he is opposed to this petition. He expressed his concerns of the 3 storage ponds at the rear of the property on the first 400 ft from the property line, then the contractor storage will start. Big Trucks, Storage Bins, etc., will cause noise and possible pollution with leaking toxins which could end up in the storage water pond. There's no reason for this, this could end up becoming a future lawsuit. In an event of any pollution ends up in the storage water pond, and theirs a tropical storm or any big storm. It could fill up and overflow the land and pollute our storm system and lakes plus other surrounding properties. Should the taxpayers have this to worry about? Another problem is, when he bought his property 30-40 years ago it was residential, now all of sudden we are going to have this storage yard with a water retention pond. We are all going to be listening to trucks and the people on the 2nd floor of their condo will have to see the stacked-up bins. This will cause our property to be worthless. If this gets approved we will be in a lot of trouble.

Ronda Uhler, she wrote the board a letter, she called the letter up for reference. She objects to the pictures that have been shown of this parcel. The storage units have already been stacked on this property. The noise level has been horrendous. We cannot enjoy our Lani at all, because of the spotlights that come from the side of the building and come into their Lani. She objects to the re-zoning, because she bought her property in 2000 and was never notified of the re-zoning in 2008. We were told that their lake drains behind them into the wetlands and this parcel is sitting on wetlands. She shares concerns of her property being flooded with those retention ponds. Currently her chairs on her Lani vibrate whenever the containers slam against another. Her air quality has been compromised by the dust that is created and the search lights are terrible. If an expansion happens, she will lose her privacy. There is no showing of the containers that are already there, and the trucks and all of the equipment and what they do on the inside of the non-concrete building. She requests that a 20ft high barrier between her and the garbage dump.

Jean Howell, lives in Lakes Edge, she has pictures of the green containers that are stacked higher than some of the treetops. When she walks into her condo, she sees right through her slider looking right at those containers. She's not going to be able to sell her condo with this view. The noise and lights are awful. She is against this petition. She's concerned that the trucks with the diesel will bring in toxins. She requests that if the zoning goes through to not have it so close to the back of her property. She would like a tour of the operation and she's no longer going to have a beautiful back yard.

Dawn Russell, represents Park Place Estates, comments that they share approximately 660 ft with this project. She thanked the board and staff for hearing her today. The property owners at Park Place Estates objects to this rezoning request. We do not believe the proposed development is compatible with the existing and future residential development that abuts the sites to the west and the south. Including our site. We kindly request that if you move forward with recommending approval for this, that the buffers get enhanced. Instead of just an 8 ft fence or wall, we would like to request to an 8 ft tall cement block wall with stucco finish on top of a berm to help block out noise and light. We would like some assurance that this will be maintained by the property owners. We would also like to request protection from any lighting and sound pollution. We would also like the Type D buffer, which requires 5 trees, 3 understory trees and 25 shrubs. We like that enhanced to have more trees. We would like to request no smelling uses. Such as fertilizer, composed, mulch or fuel or manure products be stored on the property. Thank you for your time.

Tim Valene, lives south of this project, explains he firmly believes that this will go through. The only thing he asks is for a barrier between this property and his property. Meaning a wall on a berm. The other thing is were talking about a Type B buffer and explains that a Type B buffer does not work. He's been a commercial land scape contractor for 45 years; it works for a little while. Then the shrubbery and understory planting are ignored between the trees, and they die off. Now you have trees, which who knows how tall they will be, while everyone's sight line is not covered by the shrubbery. He suggests building a wall on the berm and then put a buffer in also, trees, shrubbery and under story trees.

Emily Mako, lives in Lakes Edge, comments that she objects this being rezoned from a residential area. Since Hurricane Ian, the surrounding trees were destroyed which has enhanced the noise coming from the machinery next door. Who will monitor the height limits of the storage units if they exceed the height allowance? The road going into the landfill and Loveland is all chewed up, from the trucks who did some after the hurricane clean up. She also objects because this will devalue her property. What happens if there's another storm? Where is all that going to go? Please look deep down and see if you owned this property near this proposed property, would you want this in your backyard?

Lisa O'Leary, lives in the River Club, comments that they listen to trucks every two to three minutes from 5:40 am to 10pm Monday through Sunday. She's reached out to the commissioners, spoke to waste management and southwest hauling. They have 18-wheeler trucks drive quickly behind their home. There's traffic jams some days trying to get out of her community gate. If they just stayed on the roads that can handle that kind of machinery that would be helpful. The noise pollution causes her to not be able to sit on her Lani. She even feels the vibration of the trucks while in her house. In addition to that like other people were saying the values of our properties. This is starting to become a very hazardous situation. While listening to this plan she didn't hear how they are going to get the trucks in and out of there? There's no infrastructure, so they are going to be absorbing all of that. This devalues our property.

Denis Kelly, lives in Lakes Edge, he's very confused with all of this. How much beyond the property line will the construction be? There's a lot of things that we don't know yet. He will be calling Jie to get more information.

Bob Bungard, lives in Parks Place Estates, comments his dealings with SWFIT MUDD and the retention ponds to the west of this. If memory serves him correctly, there is an overflow drainage to this property. That he would hate to see get plugged up. Also, he's concerned for a storage yard with a runoff going into those other retention ponds. He feels sorry for the folks at Lakes Edge and River Club, because they are right next to this property. We have a good chunk of land as a buffer, and we still hear the trucks all the time. All this other land was zoned residential, everyone bought residential with the understanding this whole area was residential. To put a commercial right next to it and destroy the property value surrounding it, is a big mistake. Now the underdevelopment parts of Parks Place Estates will have a difficult time selling the properties near this.

Barbara Zigler, lives in Lakes Edge, commented that she has about 120 signatures just from her community that she would like to leave with the board. We have pictures of the site that was taken two days ago. The Loveland Blvd streets have no shoulder on any side. If someone had to veer off, you either have gully's. More and more families are moving in this area and doesn't make sense that you want to kill the residential communities that is starting to arrive here. Why not find a more suitable place for this storage unit and storage facilities that you are proposing?

Beth Wagner, lives in Lakes Edge, inquired if the upper left-hand corner is the one that will be against the Lakes Edge Property? She sees that buffer is not as wide as the buffer that's away from our community property. **Ms. Shao** answered that is correct. This is a Type A buffer, the width is 10 ft. The buffer over here is Type D, which is 20 ft. **Ms. Wagner** asked then why do they have the buffer along the residential area be less than what's inside the landfill? **Ms. Shao** replied this is one is just the storm water, so they have double landscaping. One is there property line, and the actual development is over here. That's why they have type D buffer. **Ms. Wagner** replied that's not the buffer against our property though, correct? **Ms. Shao** replied you are correct.

Mark Isserman, lives in River Club, comments that he would like the board to see the roads that you're going to recommend proposals for. Before you do so. As many noted, the roads have no shoulders and the shoulder they do have are usually a foot drop. When you turn from Loveland to Westchester, there's not enough road for a truck. It's dangerous now, and now your talking to have an active transfer station, you're going to have tractor trailers, large 3 axle dump trucks. The roads currently can not stand that much punishment. This is a growing neighborhood. The amount of traffic already is pretty busy. He encourages the board to come down and drive the

road as a resident wood and then imagine as your driving down 41 what our neighborhood is going to look like. No one picks up any trash along the side of the road out there.

Kathy Russen, lives in River Club, she didn't originally come to speak but the lack of confidence that I've developed since she's been hearing things today that prompted for her to speak. The contradictions in the description of the buffer between the planner and the attorney who spoke for the property owner. One described the boundary as either a wall or chain link fence, but the attorney describe it as opaque. Those types of inconsistency's leaves her concerned that this will be handled well. She also was alarmed to see a retention pond on land that was former landfill seems to be unsafe. She requests an environmental study to be done before digging, since we don't know what's under the ground. Another concern she has about the buffers, she is also being impacted by the noise, smell, the vibrations and the traffic on Loveland Blvd. She also requests for a traffic study. As far as what can be stored there, is concerning because at this point it can be anything, she would like more clarification.

James Koinis, owns a property near one of the retention ponds, comments he also lives in a home about 1200 ft away and is an investor in a 300-unit apartment building on the other side of Loveland. He's not opposed to development; he understands it and the opportunity that it brings. His concern is the zoning and is curious to if this passes and why that would be so when their responsibility is to protect them. For when they buy these properties in good faith by looking into the zoning and see that all is well. He was present at the 2012 meeting when the waste management project. He saw the cooperation the county and Waste Management to change the zoning then. We were promised this buffer which is this particular property that's residential. The objections came up about all the traffic the garbage would have in their neighborhood. We were assured they would go down Olean, however they don't. He is asking for the board's protection on this zoning.

Joesph Wilk, lives in River Club, comments if this go through who benefits? Just one entity, Waste Management, will benefit. If this does go through how many people will this effect negatively. He asked why change from zoning to commercial. There's no need for this, they can move to across the state and county that would not effect residents like this does. He didn't realize they were retention ponds, which is a major concern for him. He's witnessed in Massachusetts what opening up a landfill and having water next to it, can do to people. He can see chemicals coming from these and asks the board to please leave it the way that it is.

Ronald Ward, live in garden section, he agrees with almost everything said here today. However, there hasn't been any mentioning of the bicyclist and walkers on Loveland. You've already heard about the problems with traffic, maybe you might consider that information seriously. A biker or walker could get hit and he askes to please consider this when they make their recommendation.

Robert Dunn, lives in Lakes Edge, asked Ms. Shao if this is Waste Management or is this Southwest Waste Services that actually owns this property? Ms. Shao replied the property is owned by the applicant's name "33 acres old land fill Rd, LLC" Mr. Dunn asked who will be using the property, Waste Management or Southwest Waste Services? Ms. Shao replied no the "33 acres old land fill Rd, LLC" will be using the property.

Asst. County Attorney David commented that all we know is the name of the company that owns the property. Which is what Ms. Shao is telling you 33 acres old land fill Rd, LLC. **Mr. Dunn** said so we as residents have no clue what will be stored there. If you allow this without even knowing what's going to be stored there at all is a can of worms. Also, for him if they use Roll off dumpsters with construction debris that's stored in piles; every time the wind blows, we will get the debris on our properties and possibly damage our properties. With high winds the debris will still be flying in the air, where a fence won't make a difference.

Brad Branco, lives in Lakes Edge, Comments that he would like to thank the board for listening to all of them. They've heard a lot of concerns of what our communities are going through. He's a former zoning inspector. He knows they don't have an easy job. However, it is your job to protect the citizens of this community and I applied you to do that.

Carla Curzio, she was not sworn in, Secretary Bennett swore her in. Her concern is the children in the area. She's afraid that the trucks that go by at a quick pace will not see them or slow down for them.

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

Rebuttal

Mr. Berntsson commented that he would like to have Gary Bayne come up. He is the projects engineer and he can address the fact that this entire site used to be an old land fill before the board.

Gary Bayne, Southwest Engineering, states he has been sworn. The history on this property, the old landfill, this area discussed today is technically the operational side of the landfill. So, when people talk about waste and what's underneath there, there's nothing underneath there. The storm water ponds that are shown on the plans are not lakes. They are dry retention ponds, that only collects rainwater. Just like any other system, commercial development, residential development they all have storm water ponds. They do a half inch of treatment then it gets discharged at the same rate that it was leaving the site prior to the development. **Mr. Berntsson** asked **Mr. Bayne** do any of the residential that surrounds this property drain into this property? **Mr. Bayne** replied at the south boundary line there's a ditch that goes east to west. That ditch goes east to the county site, then that flows north south. It all heads south towards the harbor. That's the drainage pattern that everyone uses for this area. Including the people to the west. **Mr. Berntsson** asked will our development effect that in any way? **Mr. Bayne** replied no, they are separate basins that don't touch each other.

Mr. Bigness asked in the eventuality that this possibly gets approved by the Board of County Commissioners, you have to apply to certain organizations in the state of Florida like SWIFT MUDD, etc. What do they look for when you apply there? **Mr. Bayne** explains when you go to the water management district. The first thing they are looking for is what is the runoff rate when it rains during a certain rainfall, how fast is that water leaving that site. They don't want to happen is you flooding your downstream neighbor. So, that's why stormwater ponds are designed. The stormwater ponds act as a bathtub per say, bladder system and we bleed it out slowly to mimic what was going on prior to development.

Mr. Berntsson explained that he's still on rebuttal he just wanted for them to hear from the engineering side of it so they can have the expertise from the engineer. A lot of what you heard testimony about is there's currently under construction the transfer station on that property that is cleared. I believe that's where the lights are coming from. There's no lighting on our property that is subject to this petition. He thinks the lights are coming from the Waste Management building or the construction of the transfer station that is currently under construction at this time. Part of the conditions in the PD under the county code is that all lighting be directed on site so that its not going off site. I want to touch on the buffers to be clear. We worked this out as an additional buffer, technically we could've put the type D buffer along the southern boundary all along the western boundary. In discussions with staff and in designing the project it was determined that a double buffer, whereby the dry retention ponds are on the southern area, closest to the developed residential property. Those dry retention ponds will have a Type A buffer, basically buffering a hole in the ground to the adjacent properties. Then the Type D buffer comes in north of those retention ponds with the 8 ft opaque wall, and it is in the conditions that the wall is opaque. Ms. Shao didn't mention that in her comments. However, the conditions of approval require an opaque wall. There's a double buffer to the south end towards the residential property. In addition to the Type D buffer there's an additional Type A buffer. That buffer is a minimum of 20 ft wide. This property has an industrial land use. It can not be used for residential purposes under the inconsistency of the Comprehensive Plan (CP) and the land use. This property is owned by a separate entity that is related to the Southwest Development of the transfer station and is intended during Phase 1, that Southwest will store their transfer containers on site. That's what is intended to be stored there during the storage period. Then turned into the 3 separate contractor yards. Where the contractors will be buying the property coming in with the regulations in place to developed based on maximum size of those three. **Mr. Gravesen** asked what type of contractors could be buying those properties? **Mr. Berntsson** commented there could be an Air Condition company, Landscaping, Plumer, things of that nature. **Mr. Gravesen**

commented that someone that needs a place to park their trucks and their equipment. **Mr. Bertsson** replied correct and have an office building up front. Mr. Baker asked the piles that are going to be 15 ft high, that's not debris? **Mr. Bertsson** explained that is a condition of a maximum height that anything can be stored is 15 ft. The intention for the storage under Phase 1 is it will be roll off containers that can be stored there. There are specific conditions just to ensure that anything that is stored meets the height requirements. One asked how do you know their enforced? That's when code enforcement can be called. We will close by saying this is an inconsistency between the CP and the zoning. It was designated for industrial use 3 quarters of the property have already been approved for Industrial uses that is currently going on there. Including the Waste Management operations another outside storage physicality for vehicles and waste transfer station. This use is consistent we meet all the criteria for the granting of a rezoning under the CP. We join in the county staff report, and we respectfully request for the board's recommendation of approval. He available to answer any further questions.

Mr. Baker asked are you saying that there would be no debris that could lead into run off into the ponds? **Mr. Bertsson** replied that the site is designed so the runoff does go into the pond. **Mr. Baker** commented he's wondering if you were to get toxic type of materials, could they be stored if the contractor has any left over? **Mr. Bayne** commented that during the site plan review those questions get asked of what is being stored here. The ponds are there to collect oils coming from vehicles. That's what they are designed to do. If your saying that there's an industrial waste component coming in, which we have no idea if that's the case, they have their own standards that they go through DEP to secure that nothing is leaving the site.

Mr. Bigness asked with it being low intensity industrial and then the residential. What is the background of that? **Mr. Bertsson** replied because it was the old landfill over time. As **Mr. Bayne** said the whole site was looked at. They came in and did soil boring to determine what was there. It was determined that most appropriate development long term for this property, was to not make it residential but in fact with a low intensity industrial. Since 2008 it's been designated as low intensity industrial then the subsequent approval has come since that time. **Mr. Bigness** commented its asking for a change from an RE-1 to PD. **Mr. Bertsson** replied when it was AG CP and AG zoning, they didn't know what the end uses were going to be so they designated as low intensity industrial. Requiring that a rezoning must come in before you can use the property to PD. So that the appropriate conditions can be placed in. RE can not be used and when the county did it's major rezoning back in 2014, didn't allow for AG to be within the Urban Service area. Any properties that were AG inside the Urban Service area were changed to RE. Which is the closest to AG that they have inside the Urban Service area. **Mr. Baker** commented one of the biggest compliant was the traffic, any ideas to maybe change that? **Mr. Bertsson** commented their site will not be producing traffic. The traffic that's coming is from the construction of the transfer station or from Waste Management. This Old Landfill Rd comes by the sheriff's station up front and turns to the north and then turns again and goes straight out towards Kings Hwy.

Mr. Bigness asked what are other alternatives that could go in there if this didn't go through? With people concerned thinking they would like it to be residential what else could go in there? **Mr. Bertsson** commented a manufacturing plant, and any low intensity industrial use can go in there. **Mr. Cullinan** commented that he needs to correct some things discussed. First, for the public hearing at the Board of County Commissioners they will have 5 minutes to speak. Consent agenda items are 3 minutes, but the public hearing items are 5 minutes. With the respect to the low intensity industrial Future Land Use Map (FLUM) typically the enacting zoning classification for that, it would be industrial general (IG). However, with the annotation along with this ordinance 2008-064, it has to be a PD. It's kind of a misnomer asking what type of other type of uses could potentially go in. Since if a straight zoning was allowed to be placed on here, then yes anything under the industrial general zoning could potentially go in. However, because it is required under the FLUM annotation to go in as a PD that is where we can limit that. For **Mr. Bertsson** which I'm not sure if he's aware of it, but we just received early access photos from connect explore through the property appraiser site and it does appear that this site has already had a good chunk cleared and there are waste containers being stored on the property. I have already notified during this hearing the code enforcement to begin an investigation on that. I wanted **Mr. Bertsson** to be aware that they have already started utilizing the site with no allowance and permits issued on that. Finally with respect to the transportation issues

the intent of that frontage road that runs parallel to Loveland was specifically done when Waste Management put it in they should be going straight up which ties into Olean Blvd, which that directly goes to Kings Hwy. With that being said Loveland Blvd is a public roadway. Anybody is allowed to drive onto a public roadway. Anyone speeding or violating roadway ordinances or any types of laws, would be a sheriff issue. Mr. Gravesen asked to what level of an development either a Future Land Use Map (FLUM) adjustment or a large development that the transportation infrastructure becomes an issue? **Mr. Cullinan** stated there is a staff report and items attached to this application there is a report that has a transportation study that was done. That shows purposed number of trips and distributions that are attached to this item. So, the transportation study was done and there's also a listed species assessment that was done as well for any vegetation, wildlife things of that nature. That's all requirements of a PD rezoning. **Mr. Gravesen** commented that large projects used to be required to contribute to infrastructure. **Mr. Cullinan** commented it doesn't have to be any large project. It could be any project that trips over specific level of service standard. If the roadway is one trip short of reaching compacity then that person that puts in one trip will be required to contribute. It's not based on the size of the development it's based off of traffic generation and what the current compacity of the roadways are.

Mr. David stated for the record that **Mr. Berntsson** has completed his rebuttal he confirmed with council.

Mr. Bigness asked was it ever considered that property in between this property and properties being used? Is that property owned by the same person? **Mr. Berntsson** replied the property in between the two are owned by a separate entity. They have a separate PD approved for vehicle, boats, and RV storage. That goes for final approval to the BCC later this month.

Mr. McCormick commented that he would like to make a comment to the folks that were kind enough to comment about this issue. Those of you who refer to this parcel land as being residential, please update your presentation because the commissioners probably don't appreciate the wrong designation any more than he did.

Mr. Cullinan commented that was another point he meant to speak on. Under Florida Law a zoning designation has to be consistent with a Future Land Use Map (FLUM) designation. The FLUM designation is intended for just that, what is the future development of the site. In this case due to the situation and constraints of the area from previous uses or near previous uses that was deemed to be back in 2008 that Low Intensity Industrial would be the appropriate future use of this property. Again, with the annotation that a PD, which is a stronger type of protection for residents and for people, than a straight rezoning to an industrial zoning classification. In this case it would be Industrial General (IG) because we can add additional conditions. Whereas if it was a straight rezoning to IG then it could be the basic standards of code are as well as a list of items that allowed by right, conditionally or by special exception. Again, by utilizing and requiring the PD we can limit as well as add in these additional buffering requirements. With out that, the buffering requirements would be minimal compared to what is being purposed right now.

There was a discussion about what's entailed to change a FLUM designation to change this parcel back to residential.

Mr. Baker encouraged the citizens to talk to **Mr. Berntsson** about stronger buffers, berms, and other concerns they have before the BCC meeting. A lot of times the developers in order to limit the amount of opposition that they get at the BCC meeting, they will negotiate.

Recommendation

Mr. McCormick moved that PD-23-00006 be sent to the Board of County Commissioners with a recommendation of Approval with conditions "a" through "m", based on the findings and analysis in the staff memo dated January 20, 2024, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Baker**; and carried by a unanimous vote.

The chair called for a five minute or less recess at 3:20 p.m.

The chair called to order the meeting at 3:25 p.m.

3.) TLDR-23-03, Revisions to Section 3-9-100.1: Buffers

Legislative

County-wide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9: Zoning, Article IV: Site Design Standards and Requirements, Section. 3-9-100.1: Buffers, by revising Exhibit 2: Table of Minimum Buffer Requirements, to remove the buffer requirement for storage yards located on properties zoned Industrial General (IG) or Industrial Intensive (II), which abut properties zoned IG or II; providing for a fencing requirement for such uses; providing for inclusion in the Charlotte County Code; providing for conflict with other Ordinances; providing for severability; and providing for an effective date; Application Number: TLDR-23-03; Applicant: Charlotte-Desoto Building Industry Association.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition TLDR-23-03 with a recommendation of approval based on the reasons stated in the staff report.

Asst. County Attorney, Mr. David asked this doesn't change the buffering on a frontage road or anything of that? **Mr. Cullinan** replied that is correct, it would still have your road frontage buffer requirement and if it's abutting a commercially zoned district or residential the standard buffers would be in place. **Mr. David** commented that he remembers the conversation that was had about this. There're certain parts of the community where there are several lots in a row of industrial, so in this case you'll be putting double buffers between essentially industrial yards. That was the main issue. **Mr. Cullinan** replied that is. One of the staffs concerns you could have even though it's zoned Industrial you can have a restaurant next to a storage yard and there would be no buffering required of the more intense use of storage yard.

Questions for Staff

Mr. Gravesen commented that he has no problem with that. For example, if you go and put in something in an industrial zoned lot because you like the location or that's where you want to be. Even if you put apartments in it, your choosing to be in a intense location. If you put apartments on the second or third story of the industrial complex you don't have a compliant there's no buffer next door to you.

Mr. Cullinan commented this is a community standard type of code, but being legislative this is a pure policy decision.

Mr. Bigness asked **Mr. Cullinan** do you see any instances where this would not work? **Mr. Cullinan** replied if you have somebody who utilizes a commercial use right next to a storage yard, I could see some incompatibilities. Some of it may depend on who shows up first. **Mr. Bigness** was curious why the CDBIA is backing this and also the only thing that seems to be going up in west county is storage yards. **Mr. Cullinan** responded those are in CG districts and these changes would not effect that, but those go before the Board of Zoning Appeals (BZA) for a special acceptance. The BZA can approve or deny them. They did just deny one in the Rotunda area, not along the main roads. There are a number of sites out there in the south area, that are zoned industrial that this would apply to them. You could clear easily see the storage out there with no buffering requirements for some of those.

Applicant's Presentation

Robert Berntsson, Big W. Law Firm, representing the applicant, commented that their firm is a member of the CDBIA and I volunteered to draft this proposal to bring forward to you today. Primarily because there is a lack of industrial land in Charlotte County either the IG or II. When you are going in with a limited supply to begin with and then putting in buffers that buffering two uses next to each other. Some of these lots are 60-70 ft wide. When buffers of 20 ft, you've got a strip left in the middle. There was a general feeling amongst contractors and different

members of the organization and members of the community. They ask why are they buffering this to this? He went into explanation of the different types of process with the different types of buffers.

Mr. Cullinan commented that there are tree point requirements even on industrial zoned properties. Typically, those tree points are utilized in the buffers. There's still going to have to maintain any tree points, which could still be significant landscaping required under the code. As well as any required protection on those trees.

Mr. Berntsson commented another part is because most people were doing the Type B with a wall. The most part it was the vinyl type fencing, that didn't allow for a chain link fence. What we are purposing is that a chain-link fence may be installed, and the fence should be made opaque with slots or fiberglass mesh or similar materials that's kept up.

Mr. Baker asked if the staff supports this. **Mr. Cullinan** replied as this is a pure policy decision it has nothing to do with consistency or not consistent with the CP. Or the code because it's a code text amendment. It is a purely a policy legislative decision based on a community standard.

Public Input

None offered.

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

Discussion

None offered.

Recommendation

Mr. Baker moved that TLDR-23-03 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 12, 2024, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

Mr. Gravesen There is another item on the agenda. The Sunshine Law Video – 24:00 minutes. the board asked if it can be postponed to next meeting? **Mr. Cullinan** that's up to you gentlemen. If you would like to defer it to the next meeting, you can. **Mr. Gravesen** replied he would like to defer it to the next meeting.

ADJOURNMENT

The meeting was adjourned at 3:28 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair