

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 (absent)



District

District V
District III
District I
District II
District IV

MINUTES
REGULAR MEETING

November 8, 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 – October 11, 2021 Regular Meeting

The October 11, 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 p.m.

PP-21-07-15 Quasi-judicial Commission District IV

James Harvey, KI JAK WP, LLC has requested Preliminary Plat approval for a subdivision to be named, Landings at West Port Phase 2, consisting of 90 lots. The site is 18.89± acres. The subject property previously received plat approval at the BCC meeting held March 24, 2020 under the WEST PORT plat (FP-18-04-04). Since then, Landings Phase 1 has received Preliminary Plat approval under petition (PP-21-01-01) on April 27, 2021. This is a replat of Tract C of the Landings Phase 1 Plat. It is located North of El Jobean Road, South and East of Centennial Boulevard, and West of the Flamingo Waterway, in the Port Charlotte area.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-07-15** with a recommendation of approval with conditions based on the reasons stated in the staff report.

Applicant's Presentation

Applicant was not present. Mr. Cullinan said he has spoken with them and they were good with the staff report.

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 **PP-21-07-15** be sent to the Board of County Commissioners with a recommendation of Approval, with the 2 conditions, based on the findings and analysis in the staff report dated October 29, 2021, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:35:02

SV-21-04-02

Legislative

Commission District III

Ms. Finlay and Mr. Buess are requesting to vacate the undeveloped 50-foot Right of way portion of Hickory Drive (Palm Drive per plat) between Lot 6 Block C and Lot 1 Block E, within the Rock Creek Park subdivision. The total area to be vacated is 0.17± acres. Located north of E. 2nd Street, south of E. 3rd Street east of Pine Street and west of Manor Road, in the Englewood area.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **SV-21-04-02** with a recommendation of denial with conditions, based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira asked if the applicants were willing to give an easement, what sort of easement were they considering? Was it for public right of way?

Rick Dalton, Project Coordinator, said he understood they were going to give a 25 foot easement along the side to give them access.

Mr. Cullinan said the Board of County Commissioners has requested people put in kayak launches, or otherwise improve things for the public. We do not feel this is adequate. We will bring this up at the BCC meeting.

Mr. Bigness asked when there is an easement put in, does the property tax get adjusted?

Mr. Cullinan said yes sir. This is an unmaintained right of way.

Applicant's Presentation

Beth Ann Finlay, applicant, thanked the board for caring about public access. We are interested in the County vacating this right of way so we can officially take care of it. We have been mowing it since 2013. It would increase our privacy if we did that if we owned it. We do think this would not violate the public access intention of the master plan because public access is down the street about 16 houses. That is where everyone goes. This portion of the canal is very shallow. We have never seen anyone try to access the water. It is very deep and narrow. Not big enough to put a boat in or fish.

Mr. Bigness asked do you see any other way that vacating this would help the county out, would it be for the good of the community?

Ms. Finlay said it would lessen the county footprint. The adjacent property on the other side is a rental. There have been some issues with homelessness. The neighbors we spoke to were happy with this request.

Public Input

No one spoke for or against this request.

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

Comments

Mr. Bigness asked is there a possibility they can purchase this land from the County?

Mr. Cullinan said because it is a platted right of way, vacating it, theoretically they own the underlying fee. There is nothing to sell per se. It is not like a lot owned by the County. He showed a picture of a boat in that area. **Mr. Cullinan** gave a few examples of other areas similar.

There was discussion about if this was a good spot for public access, possibly a retention area, where would people park their vehicles if they were allowed in this area.

Recommendation

Mr. Bigness moved that **SV-21-04-02** be sent to the Board of County Commissioners with a recommendation of Denial, with a condition based on the findings and analysis based on the staff report dated November 1, 2021, Charlotte County Comprehensive Plan and the evidence and testimony presented at today's meeting, second by **Mr. McCormick**; and carried by a 3 to 1 vote for denial.

Audio Timestamp 1:56

PAS-21-00007

Legislative

Commission District I

Pursuant to Section 163.3187, Florida Statutes, adopt a Small-scale Plan Amendment to change Charlotte County Future Land Use Map Series Map #1: 2030 Future Land Use from Low Density Residential (LDR) to Medium Density Residential (MDR); with an annotation limiting the maximum density to 5 units per acre for property located at 7022, 7100, 7120, and 7140 Riverside Dr., in the Punta Gorda area, containing 24.6± acres; Commission District I; Petition PAS-21-00007; Applicant: RMDC Inc.; providing an effective date.

Z-21-20-18

Quasi-Judicial

Commission District I

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 5 (RSF-5) and Residential Multi-family 5 (RMF-5) to Recreation Vehicle Park (RVP) for property located at 7022, 7100, 7120, and 7140 Riverside Dr., in the Punta Gorda area, containing 24.6± acres; Commission District I; Petition Z-21-20-18; Applicant: RMDC Inc.; providing an effective date.

Laura Tefft, Sr. Planner provided the findings and analysis for Petition **PAS-21-00007** with a recommendation of approval, based on the reasons stated in the staff report.

Laura Tefft, Sr. Planner provided the findings and analysis for Petition **Z-21-20-18** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira asked if she could place the screen with the designations on it? He wanted to know what the size of the RSF piece is and the size of the RMF piece.

Ms. Tefft said the RMF piece is 5.64 acres and the RSF piece is 18.98 acres.

Applicant's Presentation

Jason Green, with Axis Infrastructure said he is representing the applicant. He said he was sworn in and accepts **Ms. Tefft** as an expert. **Mr. Green** said when discussing this with staff, they recommended the medium density residential land use. They explained to him this land use goes with the RVP zoning. He discussed the current zoning and talked about the land use that goes with the RV park. He discussed the density in the area. He also discussed utilities and availability. This is not a transition from agriculture, it is already an urbanized area. The existing density is 5 units per acre. Lot coverage, impervious surfaces, lot size, type of buffers, height restrictions,

all of this is covered by your land development code. We have wetlands, we have recreation space, we have preservations of 25-foot landscape buffer.

Public Input

Robert Byer Jr. said he was sworn in. He said he is president of pelican harbors civic association and when reading the plans, they had concerns about the sewage lines. To my knowledge there are no sewage lines in, so we assume they will be put in. They are concerned if this will put an undo hardship on the neighboring residents who might have to hook up to it.

Deborah Melnick said she owns the property located at 7250 Riverside Dr. immediately east of the subject site. She is against this request. They purchased this home about 2 years ago. 10 days ago when they received this notification, their world came crashing down. These lots were listed as residential single family. She said her bedroom is located closest to this proposed site. The driveway they are proposing is located on the east side and parallels our property. This is where my son gets on his bus. They can hear people very clearly from across the water behind them. She does not want an RV park 10 feet from her bedroom. The use and enjoyment of their property will be dramatically reduced. They will hear all kinds of noise, they'll be using the kayak park making noise, and probably diesel smells and back up alarms. There is no buffer that can eliminate the noise. This area was meant to be waterfront homes on single family lots not a campground. We also have security concerns. Probably streetlights will light up our home area. She is strongly against this request.

William Sander said they recently purchased a home at 7440 Riverside Dr., had we known this was going to happen, we probably would not have purchased this house. We do not need transient RV's in this area and more traffic on this road.

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

Rebuttal

Mr. Green said the City of Punta Gorda will take care of the water and sewer, they said there is capacity available. There is utilities in the area and they will continue on those. We cannot have the park without these utilities.

Mr. Vieira asked if someone could show him where Ms. Melnick's home is?

Mr. Green showed there are two houses in the area.

Mr. McCormick asked if Mr. Green could show where the current closest sewer line is on the map.

Mr. Green asked Robin from Weiler Engineering to speak about that.

Robin Palmer, Weiler Engineering, said she was sworn in. Ms. Palmer said the gravity system, forced main has not been installed yet. The design she believes is completed and a different engineering firm is working with that and the City of Punta Gorda to get that installed. She said it would tie in several miles to the west of Riverside Drive. There is a connection point that crosses over US 17 at Distant and then it will end at Pelican Harbor mobile home park. We would have to extend it a couple 100 feet, from the Pelican Harbor MHP across the railroad tracks and to our project area. This should happen within the next year or so. Their plans are to hold off until the sewer system is installed.

Mr. Green said we are sensitive to the adjacent property owners and he feels we do not need the medium density category, he feels it could be done at the low-density category, but staff suggested the land use change. This zoning to RV parks has a lot of fear. Many of these folks are seasonal. The impacts to the system, (water, sewer, traffic) is substantially less than what the impacts of the existing zoning district is. RSF-5 zoning and RMF-5 could

bring 126 lots, residential lots. That is a substantial amount of traffic and impacts that could be allowed today. This roadway is used by RV's, by commercial, by residential users.

Discussion

Mr. Vieira asked staff what the setbacks are?

Ms. Tefft said the park boundary setback is 25 feet.

Thomas David, Asst. Co. Attorney said he wanted to correct a statement that was made by the applicant's representative. He did correctly state the list of standards for the change of the zoning, but for the change of the Comprehensive Plan, the legal standard for that is called a "fairly debatable standard" (which is what we use for legislative), it is stated in Martin County, the use the fairly debatable standard of review is a highly deferential standard requiring approval of a planning action. If reasonable persons could differ as to its propriety (which basically means it's a very broad standard).

Mr. Gravesen said he can appreciate the homeowner's position about the activity going on next to them. The house in the back will be across from wetlands and preserve area but there is an area that can be subdivided. If there were 160 homes in that area, many of the homes could be just as close with no buffers. RV Park would give a 25 foot buffer.

Recommendation

Mr. Vieira moved that **PAS-21-00007** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated October 31, 2021, Charlotte County Comprehensive Plan 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.

Mr. Vieira moved that **Z-21-20-18** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated October 31, 2021, Charlotte County Comprehensive Plan 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.

Audio Timestamp 2:40

PD-21-00013

Quasi-Judicial

Commission District III

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Planned Development (13.20± acres), and Residential Multi-family 5 (RMF-5)(1.62± acres) to Planned Development (PD), and this is a major modification to the existing PD, Ordinance Number 2018-042, to add two outparcels; increasing the maximum allowable density from 60 units to 99 units, requiring a transfer of 68 density units; for property located at 13000, 13110, 13120, and 13140 Fishery Road, in the Placida Revitalizing Neighborhood; containing 14.82± acres; Commission District III; Petition No. PD-21-00013; Applicant: Placida Point LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **PD-21-00013** with a recommendation of approval with conditions "A through U", based on the reasons stated in the staff report.

Applicant's Presentation

Robert Berntsson, Big W Law Firm representing Placida Point LLC, he accepts **Ms. Shao** as an expert. As she pointed out, we had a PD approved for a portion of this property back in 2018. That approval excluded both the tip point and another parcel along the bottom area. Since then, the applicant was able to get ahold of the other two parcels and we now have a unified petition of development. This is like the one before, with the addition of the condominium units along the southern portion. On the tip, you have an amenity of a swimming pool, bar

area and restrooms. Ms. Shao covered all the issues; we join in the staff report and meet all the criteria for the granting of a rezoning. He accepts all the conditions and he's available for any questions.

Questions

Mr. Bigness on the plans it showed a gate house, is that a security gate house?

Jay Feinberg states he was sworn in and is the developer of the project. The 4 acres that are next to the mangroves are its own separate community of 60 condos and has its own gate house for security. To keep it separately from the hotel itself. There's also a gate house that was added at the front of the project, which is for directional purposes, to help guide customers to the different locations on the property.

Mr. Bigness explained the reasoning for his question is because of the marina, and its public access. Is that still going to be accessible for the public? **Mr. Berntsson** answered through the DEP submerged land lease it requires the slips to be open to the public. **Mr. Bigness** asked is the gated section do they have slips that are marina? **Mr. Feinberg** answered that all the slips will be in the public areas, not by the condo gate. There will also be available water sports rentals for the public. **Mr. Bigness** asked if the marina will also allow liveaboards? **Mr. Feinberg** answered no they do not allow them.

Mr. Bigness asked that in the writeup it went from 31 base units to 60 base units, is that due to the addition of the out parcels? **Mr. Berntsson** answered yes, that is based on the density of the out parcels. **Mr. Bigness** asked and you would still need 68 TDUs? **Mr. Berntsson** answered that is correct. **Mr. Bigness** asked is there going to be 155 hotel units in addition to the TDU units? **Mr. Berntsson** answered the hotel has a maximum of 155 units

Public Input

Jane Carver, represents the residents of the Anglers Club, they fully support the development and appreciates the owner limiting the density and the height of the development. They do have two concerns; 1) lighting on the outside of the buildings, what will the intensity of it be towards the neighbors? 2) the safety of the busy navigation channel that runs to the east of the purposed development. There's currently no speed limit there. The new development will add to the boat traffic and would like for the county to help establish a speed zone there. Otherwise, they are very pleased with the development.

Ken Keegans, resident of Boca Vista Harbor, commented that he is in attendance to be an observer. He was curious on how can get more detailed information on this development. **Assistant County Attorney, Thomas David**, informed him that he can get with **Ms. Shao** after this and collect more information that way.

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

Questions for staff

Mr. Bigness asked staff on page 35 of the analysis, section D, the first part of sentence "with purposed change adversely influence living conditions...." wouldn't 155 units and TDUs increase traffic? He knows the traffic study says that the roads will support it, but will that not adversely affect some of the traffic and congestion? **Ms. Shao** answered yes, it will not. The original PD approved for 150 hotel rooms, this only increased 5. Also, original proposal had 5 bungalows and they removed that, and they increased the residential development rights from 60 units to 99 units. The traffic study was provided and said they will not have any negative impact.

Mr. Bigness expressed his personal concern for the high amount of traffic in the touristy areas, the beaches and so forth. He commented that the project looks beautiful but is concerned as a citizen that the impact of the extra units, boats and the additional TDUs are concerns to him that he would like to share as it goes to the county commission. It's a beautiful area that had a restaurant and some residential homes already there.

Mr. Berntsson stated this site has been declining over the years. Also, keep in mind this approval for today is only adding 39 condominiums. Everything else was approved in the original, they are not adding 150 additional units.

Recommendation

Mr. Bigness moved that **PD-21-00013** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions “a” through “u”, based on the findings and analysis in the Board memo dated October 27, 2021, Charlotte County’s Comprehensive Plan, and the evidence presented at the public hearing held by the Planning and Zoning Board, second by **Mr. Vieira**; and carried by a unanimous vote.

Audio Timestamp 3:20

PAL-21-00003 **Legislative** **Commission District II**

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large-scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State agencies for review and comment; the amendment request is to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Burnt Store Village Residential (BSVR)(179.1± acres) and Burnt Store Limited Development (BSLD)(135.9± acres) to Burnt Store Village Residential (BSVR) with an annotation to the 2030 Future Land Use Map limiting the overall maximum density up to 1,000 units; increasing density from 31 units to 1,000 units; for property located at 26000 Zemel Road, in the Burnt Store Area Plan area and in the Punta Gorda area, containing 315± acres; Commission District II; Petition No. PAL-21-00003; Applicant: Maronda Homes, LLC of Florida; providing an effective date.

PD-21-00012 **Quasi-Judicial** **Commission District II**

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 allow for residential development, increasing density from 31 units to 1,000 units, for property located at 26000 Zemel Road, in the Burnt Store Area Plan area and in the Punta Gorda area, containing 315± acres; Commission District II; Petition No. PD-21-00012; Applicant: Maronda Homes, LLC of Florida; providing an effective date.

Jie Shao, Principal Planner provided the findings and analysis for Petition **PAL-21-00003** 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-21-20-00012** with a recommendation of approval with conditions “a” through “t”, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick asked if the wildlife corridor is concurrent with yucca pens, what is the drainage structure shown?
Ms. Shao answered the Burnt Store area plan established the wildlife corridor, buleways and greenways.

Applicant’s Presentation

Robert Berntsson, Big W Law Firm representing Maronda Homes, LLC of Florida, he accepts **Ms. Shao** as an expert. The first portion of their request is to amend the Burnt Store Limited Development to Burnt Store Village Residential. We are purposing the entire site be designated as Burnt Store Village Residential with a limitation of a maximum density of 1,000 units. They are asking for a reduction of what is currently allowed under the existing comprehensive plan, which is 1,167 units. They are only asking for 1,000. The site plan is designed to preserve the wetlands on the property, there is a tiny road crossing in one portion that is affecting the wetlands. Other than that, they will be buffered. Final site plan we’ll come in with the actual product that will be placed on the project. We join in the staff report and the conditions are acceptable.

Public Input

Devin Storms, lives in the area, is concerned for the drainage and the natural resources in the area.

Dr. Scott Wouk, lives in the area, asked what was this property originally zoned? Was it consistent with the Comprehensive Plan, CP.? He thought it was environmentally sensitive land. **Ms. Shao** answered no, the property prior to 2014 was zoned Agricultural Estate, AE. However, this property is part of the Burnt Store area plan and

that's why the specific land use category has been assigned to it; Burnt Store Village Residential and the Burnt Store Limited Development. He expressed that the whole area is sheet flow and that the water goes right into Charlotte Harbor. He also expressed his concern for the animals in the area.

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

Rebuttal

Mr. Berntsson expressed that they have to go through all the stages and seek permitting for both wetlands and drainage. Our project engineer is happy to meet outside with those who are concerned. They can't have any drainage coming off the property in excess of what it was prior to development. An environmental report has been performed and permits will be filed with all the involved agencies. There is a 250ft wildlife corridor that is being preserved, virtually all the wetlands onsite are being preserved with minimum impact.

Discussion

Mr. Bigness asked how will they address if rain was flowing through this property and now it's built up, do they capture it? **Mr. Rebol** replied during the design process they are required to evaluate the predevelopment situation for the property. If they have water coming from offsite onto our property, we have two choices; bring it into our system, which we would have to treat and attenuate that water. Or create a bypass system, where we would design a passage through our property, whether it's to maintain sheet flow, we have to prove hydraulically that it can maintain the necessary compacity flow.

Mr. Gravesen expressed that he has a concern with changing the limited underline land use because it has the connection between the preserve on both the east and the west. This creates the wildlife corridor without creating another one. **Mr. Berntsson** explained the wetlands are more on the northern portion of the property, in order for them to not impact the wetlands to the north, we are allowing for the higher density on the south portion. The overall is to still protect the wetlands to the north and shift some that density to the south where we are also protecting were also protecting the southern wetlands. Plus, we are reducing the overall density from 1,167 to a limit of 1,000.

Recommendation

Mr. McCormick moved that **PAL-21-00003** be sent to the Board of County Commissioners with a recommendation with a recommendation of Approval of transmittal of application PAL-21-00003 to the Department of Economic Opportunity (DEO) and other State review agencies for review and comment, based on the findings and analysis in the staff report dated October 23, 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. Vieira**; and carried by a unanimous vote.

Recommendation

Mr. McCormick moved that **PD-21-00012** be sent to the Board of County Commissioners with a recommendation of Approval with conditions "a" through "t, based on the findings and analysis in the staff report dated October 23, 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. Vieira**; and carried by a unanimous vote.

Audio Timestamp 3:45

PAL-21-00004

Legislative

Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large-scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State agencies for review and comment; the amendment request is to 1) change Charlotte County FLUM Series Map #3: 2030 2030 Service Area Delineation, to extend the Urban Service Area boundary to include the subject property; and 2) amend Charlotte County FLUM Series Map #2: 2050 Framework, from Agricultural/Rural to CRA; for property located at 22801 Bayshore Road, in the Charlotte Harbor

Community Redevelopment Area (CRA) and in the Port Charlotte area, containing 16.37± acres; Commission District I; Petition No. PAL-21-00004; Applicant: SEI Bayshore, LLC; providing an effective date.

PAS-21-00008 Legislative Commission District I

Pursuant to Section 163.3187, Florida Statutes, adopt a Small-scale Plan Amendment; the amendment request is to change 1) Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Preservation (PR) to Charlotte Harbor Commercial (CHC) for 14.24 acres, and 2) Charlotte County FLUM Series Map #1A: Charlotte Harbor 2030 FLU - Detail Map from Preservation to Charlotte Harbor Commercial (CHC) for 14.24 acres, for a portion of the property located at 22801 Bayshore Road, in the Charlotte Harbor Community Redevelopment Area (CRA) and in the Port Charlotte area, containing 16.37± acres; Commission District I; Petition No. PAS-21-00008; Applicant: SEI Bayshore, LLC; providing an effective date.

PD-21-00014 Quasi-Judicial Commission District I

An Ordinance, pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Environmentally Sensitive (ES) to Planned Development (PD) in order to allow for development of a restaurant and retail complex, for property located at 22801 Bayshore Road, in the Charlotte Harbor Community Redevelopment Area (CRA) and in the Port Charlotte area, containing 16.37± acres; Commission District I; Petition No. PD-21-00014; Applicant: SEI Bayshore, LLC; providing an effective date.

Jie Shao, Principal Planner provided the findings and analysis for Petition **PAL-21-00004** 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 **PAS-21-00008** 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-21-00014** with a recommendation of approval, with conditions "a" through "q", based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira commented near the existing home, is that going to remain as environmentally sensitive land? Ms. Shao answered yes, that will remain preservation.

Mr. McCormick asked what is environmentally sensitive land and how is it treated? Looks like a parking lot is being placed on environmentally sensitive land, which may be just upland. However, he would like a definition on what we think environmentally sensitive land is?

Applicant's Presentation

Geri Waksler, McCrory Law Firm representing SEI Bayshore, LLC, introduces **Michael Keen, Keen Acoustics, Inc**, who gave a brief introduction to his background. Ms. Waksler commented they would like to have Mr. Keen recognized and accepted as an expert in acoustical engineering and acoustics. The board accepts Mr. Keen and his resume. Ms. Waksler pointed out there is no proposed development towards the northern portion of the land near the home that this property wraps around. This property has always been located within the Charlotte Harbor Community Redevelopment area since 1992. As Ms. Shao noted in her presentation the property was located in the Urban Service Area and was actually designated as an infill area, beginning with the first CP in 1988 and continuing until the adoption of our current plan in 2012. When it was pulled out of the Urban Service Area and placed into the rural area. The CP adopted in 2012 states four purposes for the rural service area: with the last two relating to the timing of future of development and the fourth related to regulating mining. The two relevant purposes are 1) that it protects the existing rural character of the area and acknowledges that a certain portion of county's population will desire to live in a rural setting. 2) it promotes lower density's in outlining rural

areas, which has infrastructure limitations. This property is not located in a rural area and is within an area that is targeted for redevelopment, it is in a community development area. Both our application and Ms. Shao staff report analyze the criteria for urban sprawl and both analyses find this proposal does not create urban sprawl. The request to expand the urban service area to reinclude this property is consistent with the Comprehensive Plan, CP. The remaining changes are all intertwined and come down to the redevelopment purposed for the Charlotte Harbor CRA site. Smugglers Enterprises which already owns and operates Harpoon Harry's, the Captain Table and Lashley Crab House, plans to relocate Harpoon Harry's and develop a retail center on the site. All of the wetlands on the site will maintain their preservation land use and are designated as preserve areas on the PD concept plan. No wetlands will be impacted by this development. Looking at the criteria to be considered for a rezoning, staff has reviewed the application and has determined that the FLUM amendment, Map amendment and PD rezoning are consistent with CP. Public safety will not be affected, the county's transportation engineer has reviewed the report and concurs with that determination. Public Facilities have the compacity to serve the site, including available water and sewer service. This site and its buildings were designed to minimize impacts to neighboring properties. SEI Bayshore, LLC is working with the acoustic engineer to design a building and implement processes and procedures to ensure there are no noise impacts from the site.

Mr. Keen comments the main goal of the study is to quantify the sound of missions from performances of the full bands. The bands will only be performing inside and only using the house sound system. Which the management will have full control of the sound system. There will be several operatable glass garage doors, most will be opened towards the south and south west portion, where outdoor decks are located. The noise study that he conducted is looking at the worst-case scenario involving the doors being opened, with a full band playing in the evenings. He then went into detail of how he went about the study. His study found that they will not exceed the 60 dBA daytime levels at the adjacent property lines and in most cases, they will not exceed the nighttime 55 dBA sound levels at most of the property line. His conclusion at worst case scenario, is that the sound level admissions would be a negligible contribution to the community.

Ms. Waksler expressed this site has none of the characteristics identified in the CP for the rural service area. Mr. McCormick you asked about what makes this an environmentally sensitive piece; the environmentally sensitive areas are the wetlands, which are not proposed for any development, all of them will be preserved and enhanced through a management plan. Also, the proposed restaurant and retail complex will not adversely impact surrounding residents. Provided that the proposed conditions of approval are adopted then there will not be noise impacts with bands playing. All proposed conditions are accepted if approved.

Questions

Mr. Bigness commented that this is a first for a professional to come in on a noise attenuation, are you getting feedback from the community that it's a major concern? Ms. Waksler replied they anticipated that it would be.

Mr. McCormick asked if the parking area will be paved or is it going to be permeable? Ms. Waksler answered it will be paved. There will be a storm water system that will capture any runoff and treated. Mr. McCormick encouraged Ms. Waksler to have the engineers to look into making it permeable, she said she will speak to him about it.

Mr. Vieira asked Ms. Waksler how will the sound be controlled, via house control, if bands bring in their own amplifier? Ms. Waksler replied they will not be bringing in their own speakers. That way the restaurant itself can control the sound.

Public Input

Richard Russell, lives in area, states that the music doesn't concern him, it's the impaired water situation in Charlotte Harbor and this is an environmentally sensitive property. He encourages the county to use this a caveat to never allow this to have access to the Harbor. Even if in the future it's proven to be able, the county should still keep this preserved. The concern he has is the environment that we have. The mosaic is upstream and is pumping

into our harbor, all this is adding up. We need to make sure that if this project gets developed takes into account the issues, we have about preserving our Charlotte Harbor.

Dr. Catherine Bukovitz, lives adjacent to site, commented that she would like to bring to the board's attention, Climate Change, and flooding. Since the cancer clinic put in a retention pond it has caused flooding in the area to increase. She brought in photos of her backyard from 2017 and 2020 showing flooding near retention pond. She expresses that if any more environmentally sensitive forest is tore down flooding will only increase. She is against this proposal and knocking down any tress and putting in a parking lot. This will not only affect their property value but also their livelihoods.

Faye Beebe, live adjacent to site, asked if the woods next to her property would be taken away? She would hate to see a parking lot and agrees with Dr. Bukovitz. She was advised to speak to the developers.

Jeff DiLaura, owns property near site, explains that he has done a lot of research on this property and thinks that the use of this property is better than what he originally had. He thinks the community needs a project like this. He has some request, to have an easement put in to allow access to his property from Bayshore. Also, to have the buildings placed to the southeastern side of the development to provide a buffer between his property at 4399 Willow St. He is still trying to figure out what to do with his property, he wanted to hear what the neighbors had to say. He does know that the property has to change, he has had vandalism, theft and arson on the property. He has had to allow the police access to his property quite a few times due to squatters. He believes that this will help improve the area and the safety in the area with this development. He also asks to place his parcels as well into the urban service area like this property.

Mr. McCormick asked Mr. DiLaura if there are any buildings on his property or is it all raw land? Mr. DiLaura answered it is all raw land. There are barely any trees on it.

Mr. Bigness asked if Willow St has access to his property? Mr. DiLaura answered yes, but unfortunately that's not a thoroughfare that he can use to access the property.

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

Discussion

Gary Bayne, Southwest Engineering & Design, asked to see the pictures handed to the board and explains that to him the photos looks like it was taken during a rainstorm event, and that's what storm water pond supposed to do. He then goes into detail about the stormwater process with this project. He also explains that they do 50% more additional treatment than what's required because they are within 1,200 feet of the harbor.

Mr. Bigness shared his concern for the impervious surface with vehicles dropping oil and various things onto the pavement, with the rain it washes down. His biggest concern is in regular events would rain wash be contained and treated well, so that it protects the area and the harbor? Mr. Bayne expressed that the side lots are the only thing that's not getting captured and retained, also the driveway coming in.

Ms. Waksler expressed that the county used to own Mr. DiLaura's property and if this was truly land that was warranted for preservation then the county would not have sold the land to a private developer. There are lands that do need to preserve all which are preserved under this plan. There will be a functioning and well-designed stormwater system and carefully place buildings and structures to make sure noise doesn't impact the adjacent neighbors.

There was a brief discussion on the history about the site.

Mr. Gravesen commented as a question that was presented this is a just a small enclave that has been pulled out from the urban service area. Part of the petition here is to put half of it back into the urban service area. Can this be suggested to the commissioners that the application be expanded for the whole area to be brought back into the urban service area? **Asst. Co. Attorney, Thomas David**, answered he doesn't know the specific answer to this question on if this application can be changed. He doesn't believe that will be the case. The board however does have the authority to change the urban service area. **Planning and Zoning Official, Shaun Cullinan**, answered to bring something back into the urban service area there's a lot of data and analysis required by the state in order to do that. The applicant has gone through great expense to justify with data analysis because they feel it's proper to bring it back in. These are property own initiated. The property owner has every right to apply for that, and it will be evaluated.

Recommendation

Mr. Vieira moved that PAL-21-00004 to the Board of County Commissioners with a recommendation of Approval of transmittal of application PAL-21-00004 to the Department of Economic Opportunity (DEO) and other State review agencies for review and comment, based on the findings and analysis in the staff report dated October 31, 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. Bigness**; and carried by a unanimous vote.

Mr. Vieira moved that PAS-21-00008 to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated October 31, 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. Bigness**; and carried by a unanimous vote.

Mr. Vieira moved that PD-21-00014 to the Board of County Commissioners with a recommendation of Approval with conditions "a" through "q", based on the findings and analysis in the staff report dated October 31, 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. Bigness**; and carried by a unanimous vote.

Audio Timestamp 5:07

PD-21-00008

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 vehicle storage; for a portion of the property located at 25505 Old Landfill Road, in the Port Charlotte area, containing 20.97± acres; Commission District I; Petition No. PD-21-00008; Applicant: Rance Kleiber, Sr.; providing an effective date.

Jie Shao, Principal Planner provided the findings and analysis for Petition **PD-21-00008** with a recommendation of approval with conditions "A" through "L", based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira asked in exchange for the change in the side setbacks, Type D landscape buffer is the most intensive that we can have? Ms. Shao answered yes, that is correct.

Applicant's Presentation

Robert Berntsson, Big W Law Firm representing Rance Kleiber, Sr he accepts **Ms. Shao** as an expert and join in the staff report. The property next door came in a couple months ago for the indoor transfer station and was approved by the Board of County Commissioners last month. This is a walled in facility, there's buildings along the perimeter that are connected by the 6ft wall. There will be gravel internal driveway but there is a wheel cleaning mechanism. It will clean the wheels before you go back onto the pavement.

Public Input

None offered.

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

Recommendation

Mr. Vieira moved that **PD-21-00008** be sent to the Board of County Commissioners with a recommendation of Approval, with conditions "A" through "L", based on the findings and analysis in the staff report dated October 23, 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.

Audio Timestamp 5:14

PAS-21-00006 Legislative Commission District II

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) and High Density Residential (HDR) to Commercial (COM); for property located at 4138 Taylor Road (a portion of this property), 4320 and 4416 Taylor Road, in the Punta Gorda area, containing 4.5± acres; Commission District II; Application No. PAS-21-00006; Applicant: ABPGFL LLC; providing an effective date.

PD-21-00011 Quasi-Judicial Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Estate 1 (RE-1) and Office, Medical, and Institutional (OMI) to Planned Development (PD); for property located at 4138 Taylor Road (a portion of this property), 4320 and 4416 Taylor Road, in the Punta Gorda area, containing 4.5± acres; Commission District II; Application No. PD-21-00011; Applicant: ABPGFL LLC; providing an effective date.

Jie Shao, Principal Planner provided the findings and analysis for Petition **PAS-21-00006** 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-21-00011** with a recommendation of approval with conditions "A" through "M", based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

Robert Berntsson, Big W Law Firm representing ABPGFL LLC, he accepts **Ms. Shao** as an expert and accepts all the conditions purposed in the PD and is here to answer any questions.

Public Input

None offered.

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

Recommendation

Mr. McCormick moved that **PAS-21-00006** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated October 22, 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. Vieira**; and carried by a unanimous vote.

Recommendation

Mr. McCormick moved that **PD-21-00011** 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 report dated October 22, 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. Vieira**; and carried by a unanimous vote.

ADJOURNMENT

The meeting was adjourned at 5:21 p.m.
Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair