

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

September 11th, 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 – August 14th, 2023, Regular Meeting

The August 14th, 2023, minutes were approved as circulated.

Announcements

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

PETITIONS

1.) PFP-23-05-02

Quasi-judicial

Commission District I

Meritage Homes of Florida, Inc. is requesting Preliminary and Final Plat approval for a subdivision to be named Babcock Ranch Community Crescent Lakes Phase 2. They also seek approval of a Developer's Agreement and surety to cover the construction of the plat infrastructure. The proposed subdivision, consisting of 173 single-family lots and three tracts with supporting utility, roadway, and stormwater infrastructure, is the second phase of the Crescent Lakes subdivision. The property contains 39.78± acres and is generally located south of Bermont Road, north of the County line with Lee County, west of the County line with Glades County and east of Bluebird Trail. The site is within the boundary of the Babcock Ranch Community Development of Regional Impact (DRI) Increment 2, the East County area, and in Commission District I.

Jenny Shao, Project Coordinator, provided the findings and analysis for Petition **PFP-23-05-02** is consistent the County's Comprehensive Plan and the County's code of laws and ordinances and other applicable guidelines.

Applicant's Presentation

None offered.

Public Input

None offered.

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

Mr. Vieira commented before his recommendation that over the last several months we've had several developers that didn't bother to show up to make their presentation. It almost seems like that we are a foregone conclusion in approving developments and that sort of thing.

Recommendation

Mr. Vieira moved that **PFP-23-05-02**, be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated August 31st, 2023, Charlotte County Comprehensive Plan and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Baker**; and carried by a unanimous vote.

Comments

Mr. McCormick commented that he agrees with **Mr. Vieira**.

Shaun Cullinan, Planning and Zoning official, commented that they always inform the applicant and tell them they need to appear whether they choose too or not is up to them. You also, if you as a board has questions you always have the opportunity to table these until the applicant is present to answer any questions you may have. That is well within your discretion.

2.) SV-22-01-01

Legislative

Commission District III

Ms. Angela Cupp is requesting to vacate all of 4th Avenue adjacent to Lot 1 and Lot 4, Block N, Rock Creek Park 3rd Addition as per plat thereof recorded in Plat Book 6, Page 1, of the Public Records of Charlotte County, Florida and a portion of the undeveloped 50' Right of Way of 8th Street abutting Lot 1, Block N, Rock Creek Park 3rd Addition, adjacent to her property located at 836 E. 7th Street, Englewood, FL. The total area to be vacated is 15,703.2± square feet and is generally located north of E. 7th Street, south of the Sarasota County Line, east of Pine Street and west of Skipper Lane, within the Englewood area and located in Commission District III.

Jenny Shao, Project Coordinator, provided the findings and analysis for Petition **SV-22-01-01** 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

Applicant is present and had no comments at this time.

Public Input

None offered.

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

Questions

Mr. Bigness asked staff how are property taxes effected when these are granted? **Mr. Cullinan** replied typically the property values will go up because they now have more land and property taxes would probably go up accordingly.

Recommendation

Mr. Bigness moved that **SV-22-01-01** be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the staff report dated August 31, 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**; and carried by a unanimous vote.

Mr. Cullinan passed out revisions to the staff report to all of the board members. He explained that as they were going through preparing for this, they found some errors in the staff report. We wanted to put a clean copy out there and have additional copies should the public want them. We've informed the applicant and we had to do some revisions to some of the conditions. It was based little bit off an older staff report and some different conditions, so we just wanted to put that out there.

3.) PAS-22-00010

Legislative

Commission District I

Pursuant to Section 163.3187, Florida Statutes, adopt a Small Scale Plan Amendment to change 1) Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Charlotte Harbor Commercial (CHC) to Charlotte Harbor Mixed Use (CHMU), and 2) Charlotte County FLUM Series Map #1A: Charlotte Harbor 2030 FLU - Detail Map from Charlotte Harbor Commercial (CHC) to Charlotte Harbor Mixed Use (CHMU), for property located at 4536 Tamiami Trail, in the Charlotte Harbor Community Redevelopment Area (CRA) and in the Port Charlotte area, containing 2.06± acres; Commission District I; Petition No. PAS-22-00010; Applicant: David M. Davenport AIA, NCARB, LEED, AP BD&C; providing an effective date.

Folakemi Gangbo, Planner, provided the findings and analysis for Petition **PAS-22-00010** with a recommendation of approval, based on the reasons stated in the staff report.

4.) PD-22-00017

Quasi-Judicial

Commission District I

An Ordinance, pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Commercial General (CG) to Planned Development (PD) in order to allow for an additional self-storage building on the site with an existing self-storage building and also requesting to adopt the Detail PD Concept Plan, for property located at 4536 Tamiami Trail, in the Charlotte Harbor Community Redevelopment Area (CRA) and in the Port Charlotte area, containing 2.06± acres; Commission District I; Petition No. PD-22-00017; Applicant: David M. Davenport AIA, NCARB, LEED, AP BD&C; providing an effective date.

Folakemi Gangbo, Planner, provided the findings and analysis for Petition **PD-22-00017** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

David Davenport, applicant whose an architect in Sarasota, Folakemi Gangbo, explained this project currently has 105,000 storage project that are three stories, that was done in 2019. It's Extra Space storage. We are purposing to add in the area that is currently used for RV parking, we are purposing 18,000 more or less square foot storage building in lieu of the RV parking. Which it should reduce the trips per day for the side traffic. We are not increasing the impervious area at all. The only additional water uses, and sewage is for two single access restrooms. We will be sprinkling the new building using the new building and using the existing back flow preventor that we have, which is 6 inches and adequate to sprinkle the new building. The primary reason the client wanted to do the addition is because it's about a 60% increase of self-income verse the RV parking. He also mentioned that the existing building is 99% rented out so there is a demand for more storage. He's here to answer any questions.

Questions for Applicant

Mr. Bigness asked that it seems a lot of the self-storage units are on frontage is that good for business? **Mr. Davenport** replied that having done over 200 self-storages from Miami to downtown Boston, he'd say yes. I would consider self-storage to be like a retail occupancy, as far as having the visibility to the public. Even though it's a very low traffic type use, locating these on main thoroughfares is very important to their success.

Public Input

None offered.

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

Recommendation

Mr. Vieira moved that **PAS-22-00010** be sent to the Board of County Commissioners with a recommendation of approval, based on the findings and analysis in the staff report dated September 5th, 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**; and carried by a unanimous vote.

Recommendation

Mr. Vieira moved to submit, **PD-22-00017**, be sent to the Board of County Commissioners with a recommendation of approval, with conditions “a” through “k”, based on the findings and analysis in the Board memo dated September 5th, 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.

5.) TLDR-23-02

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9: Zoning, Article III. Special Regulations, by adding new Section 3-9-92. Affordable Housing/Accessory Density Units, providing for purpose and intent; providing for requirements for an affordable housing unit or accessory density unit; providing for standards for an accessory density unit; providing for standards for an affordable duplex; providing for conflict with other Ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **TLDR-23-02** based on the reasons stated in the staff report.

Questions for Staff

Mr. Baker commented we are starting with those income requirements, those match section eight, right? **Assistant County Attorney, Thomas David** responded those are the State Statue 420.004. **Mr. Baker** asked how will you all enforce that? **Mr. David** replied generally we do it through a land use restriction agreement. Which is essentially a covenant running with the land. **Mr. Baker** asked when a person moves in how does the county monitor it? **Mr. David** responded the county would monitor it either through reporting from the property owner and auditing. **Mr. Cullinan** commented the Human Services currently does that for any of these projects that are rentals.

There was a discussion of different scenarios of what is acceptable.

Mr. Cullinan explains this is land use where were putting in the requirements if you’re looking to do an accessory dwelling unit or some of the other types of structure basing’s. With respect to funding and other possible tax abatement or tax credits, those are separate items that you may potentially qualify for if they meat the statutory criteria. **Mr. David** comments if they have any suggested improvements or changes to this; it’s going to go in front of the Commissioners we’ll be glad to transmit them. If you want to do it from the dais or if you want to write a separate document or anything you feel like doing. This has been structured it to be a temporary process so we can figure out if it works or not. There’s a lot of people with concerns. **Mr. Cullinan** also mentioned a little more to this as well, with the Live Local Act that was signed into law by the Governor a couple of months ago they are actually pushing for various types of governmental intervention, if you will, of how to try and solve some of this. They are seeing that the private market is not able or not willing to try to address this situation and their instructing local governments to try work through this issue to try to address it.

Ms. Shao commented to **Mr. Baker** about building an accessory structure it will be towards a specific set of development standards and will have set back and lot coverage requirements.

Mr. Baker explained it’s just to wide open. We don’t consider elevations and there’s a lot of houses that could be bought right now and rented as low income. With this the owner could come in and build tiny houses behind them and you will approve them all.

Mr. Vieira mentioned that he tried to find a Land Use restriction agreement, could you summarize that for me? **Asst. County Attorney Mr. David** replied that it's fairly extensive, but the main requirements are reporting and allowing for auditing of the records. They essentially run with the property. The most commonly used is in a ship mortgage, we have land use restriction agreements there. We have a fairly extensive land use restriction agreement that is part of a palladium project, that's off of Veterans Blvd. Every time we use the county's incentive density that comes with a Land Use restriction agreement. Essentially what it does is says you are constrained to use these to rent these units subject to requirements of the statute that applies. **Mr. Vieira** commented that how does it work when he builds a small house, he agrees to the restriction agreement and then a year from now he decides to sell it; what does that do to the person that buys the property? **Mr. David** responded it's a cloud on title that would require you to maintain it as what it is. **Mr. Cullinan** commented, or you would have to remove the structure. The way that we have structured this to be able to utilize it is only utilizing the county's incentive density. **Mr. Vieira** again we have a robust real estate market how does the control come in there it's either you rack it down or you enjoin somebody forever? **Mr. David** usually they are about a 30-year commitment. If the board decides they do want to proceed with this, they will be implementing policies that will follow it. The questions that you are asking are ones that we will have to address at some stage if it makes it. **Mr. Vieira** commented he was also thinking you can't split the lot and sell the ADU that would lower the size of building lot to half of the original lot. So, there's a prohibition that would be attached to that as well. **Mr. Cullinan** replied that's the thing, by utilizing the county's incentive density the county is essentially incentivizing it. That's why this is called incentive density we are incentivizing people, were putting the county's skin in the game through density that we have and other things. Providing they qualify and are willing as **Mr. David** said to be very heavily regulated and restricted in order to do this. **Mr. Vieira** asked going back to a cloud on the title will there be a lien put in place on the title? **Mr. David** it would show up as an agreement against the title.

Mr. Baker commented that this is too premature, there's a lot of discussion and a ton of loopholes and before it comes to the public it should be tighter in his opinion.

Mr. Bigness asked is the incentive density, are we creating density and I know we have set density, or is that county owned density that are given? **Mr. Cullinan** answered that is county owned density that we are putting in again with the 80% or below area median income that's where that applies. It would not apply to in Coastal High Hazard areas. There's a number of areas and restrictions on county's incentive density on where it can be located into. We also do have a pool, like Parkland, where we sever off the density and hold a certificate just like a private entity would, which is a completely different pool. The incentive density and the intent of the program was to take those steps that the private sector was not taking, in order to try to address this. Prior to that probably about 4 or 5 years ago is where we changed the incentive density to solely focus on it being for affordable housing and I believe those changes come before this board as well. **Ms. Shao** included we do not put the timeline to incentive density to use for the timeline for that. We do have the policy in the Comp Plan talking about incentive density that could be used for Low-income housing for 20-30 years depending on the funding source for that. In addition to that we can also have marked rate for in perpetuity.

Mr. Bigness expressed that part of the problem he has with this is the affordability issue. The affordability is the county taxes and the thing he doesn't agree with is that somebody gets a break. As a builder he doesn't get to wave the fees, he's lost jobs because of the piling on of fees. He gave a couple of examples as in how the fees have increased in all avenues. He asked what is the status of millage rate and our budget? **Mr. David** replied we had our first hearing on Thursday night. **Mr. Cullinan** responded it was Thursday the 7th down at the Event Center and there's one more hearing. **Mr. David** believes they held the millage as the same. There was some change to fire MSTU.

There was a discussion of the criteria that is needed to wave the impact fees and more scenarios of where the incentive density could go.

Mr. McCormick comments that the impact fee is a large number than it is in consequential number if you are building a million-dollar home on the barrier islands. It's an enormous impediment if you are trying to do low-income housing. It has to be dealt with in some logical way. That when we talk about taxes increasing, we all know that there's been a big run up on real estate values and if you use the same multiplier or the same mil rate, you're getting a lot more revenue for the county. However, when property values go down county's municipalities have an awful problem with their obligations that they have incurred in the good times.

Mr. Cullinan explained that they have had the same discussions of this is not going to be the end all be all golden parachute of affordable housing. When you start to get into construction cost, utility cost, septic tank cost and all of the other fees. You're correct. It may not, but this at least were purposing something to try. It's a tool in our tool belt.

Public Input

None offered.

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

Comments

Mr. Gravesen commented that he understands all of the comments and he agrees with most of them. He gave an example of a recent builder speaking of their cost to build a 70–80-unit affordable housing apartment complex of \$300,000. That's not affordable, it seems way to high for an affordable housing complex. He does not agree with this policy. With the rentals of the accessory dwelling unit, is there a minimum occupancy time? If its not in the regulations, you may want to consider; a minimum time frame that you want to write a lease for. Another thing, you're talking about the HUD qualifications of income and Affordable Housing Advisory Committee (AHAC) has gotten into an issue with hurricane recovery funds. In that the income in this area vs assets. Not everybody that has low or moderate income are poor. They have lots of assets, maybe not convertible into cash. Is there an asset test or a means test that you may want to consider. The property must be under the ownership of one individual trust or whatever, but it doesn't say that the primary property unit has to be occupied by that owner. That's opening up for a rental company where it might be turning it into an Airbnb and not an creating additional income for an owner staying there. With the Future Land Use Map (FLUM) it's being discussed that the low-density is 5 units per acres, and your wanting to allow this into an RSF 3.5 residentially zoned. Well, if each property say on a 10,000 sq ft lot put in a unit you've exceeded your low density residential. The 5,000 sq ft lot area, are you creating a fictitiously a lot for the dwelling unit? An RSF 3.5 is a minimum is 10,000 sq ft. **Ms. Shao** explained the reason we put that there is trying to make sure that we have the room for the accessory dwelling unit. **Mr. Gravesen** commented that it is confusing it doesn't do what is trying to be accomplished.

There was a discussion about various of examples of lot sizes and duplexes.

Mr. Gravesen asked how much of the Murdock Village property does the county still own? **Mr. David** replied he breaks it off to three sections; the center parcel is under contract and should close by the end of the year, the county has sold a chunk of the third parcel – which is closest to Murdock Circle, we have about 30-40 acres left to sell. There is vacant land owned by the county subject to this breached agreement that is still available in that third portion. **Mr. Gravesen** suggested instead of a lot of incentive, that will impact the private builders, the county has some acreage that is accumulated near Murdock Circle to zone it out for the duplexes for affordable housing. Do the incentive there and accumulate it there instead of hodge podge put it next existing landowners who purchased things under current zoning codes.

Mr. Vieira asked when does this go in front of the Board of County Commissioners? **Ms. Shao** replied it goes in front of them on October 24th, 2023 for its 1st Public Hearing. If everything works it will go to the board for adoption hearing on November 28th, 2023.

Recommendation

Mr. Baker moved to submit, **TLDR-23-02**, to the Board of County Commissioners with a recommendation of Denial, based on the findings and analysis in the Comprehensive Planning staff memorandum dated August 22nd, 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. Bigness**; with and carried by a unanimous vote.

Comments

Mr. Bigness pointed that this board here is very contemplative on things that are brought before them we are open to ideas and for us to unanimously come together and have this much discussion, I think should be something that maybe the commissioners take into account when they are considering this. We are very concerned about what this is and what it could be. Once its started who knows where it goes. Staff does a great job and works very hard on their reports and we know you're trying to do what the commissioners have come to ask you to do. Were not trying to be counterproductive. **Mr. Cullinan** replied that's why you are local land planning agency.

ADJOURNMENT

The meeting was adjourned at 3:01 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair