

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
REGULAR MEETING
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida

Board Members

Michael Gravesen, Chair
Doug Izzo
Stephen Vieira, Secretary
Vacant
Clint Baker



MINUTES
REGULAR MEETING

District

District V
District III
District I
District II
District IV

September 9th, 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.

Shuan Cullinan, Planning and Zoning official, explained the status of the Planning and Zoning boards vacancy. Mr. Cullinan explained that Mr. McCormick had to resign from this board and the Board of County Commission Administration Assistants have posted that position. There is an item on tomorrow's Board of County Commissioners meeting for an appointment of a resident in that district.

Approval of Minutes – August 12th, 2024, Regular Meeting

The August 12th, 2024, minutes were approved as circulated.

Announcements

None offered.

PETITIONS

1.) PV-24-02

Legislative

Commission District I

Debra and Stephen Vieira are requesting to vacate a portion of Harbour Heights Section 1, consisting of Lots 9 through 11 and 52, Block 10, as recorded in Plat Book 3, Pages 21A through 21D, of the Public Records of Charlotte County, Florida. The applicant is requesting a plat vacation in order to comply with a settlement agreement with the County in association with Resolution Number 2024-023. The property consists of 20,016± square feet and is located at 2289 Talbrook Terrace, in Commission District I.

Jenny Shao, Planner, provided the findings and analysis for Petition **PV-24-02** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

Mr. Baker asked about the settlement, that had to come into agreement with them. What was the settlement?

Ms. Shao responded the settlement agreement was for the release of a conservation easement. That was on the lots 9-11. **Mr. Cullinan** explained that there have been some situations in this area of Harbor Heights where the density removed from the parcel then the people that severed off the density were letting the properties go to tax deed sales. Typically, where unsuspecting purchasers bought them with no density and with no ability to build. This one we were able to catch prior to **Mr. Vieira** constructing anything. The next item you will hear that unfortunately staff missed that one. We have taken numerous steps in order to keep this from happening in the future. We've added a GIS layer that shows where the Conservation Easements are, in hopes this won't happen

in the future. Unfortunately, there is a lot of lots out there that are being publicly traded and anything that the county had in surplus, we have pulled off the market, because they are essentially unbuildable. There are privately pieces of property that has this situation. **Mr. Vieira** purchased this from the county. This is one where a title search did not find that there was Conservation Easement on there either. There was a number of failing in these two situations. The ones in the private market, we currently have no control over those. We may be seeing those situations in the future. **Mr. Gravesen** asked is this a Conservation Easement, instead of being an environmental issue, is it more because the density was removed? **Mr. Cullinan** that is correct. The conservation easement, these are in a scrub jay areas, that's one thing. However, these are also substandard smaller than the zoning district allows. While vested and buildable, a developer or few developers have purchased these lots in order to take the density off to transfer them elsewhere to other projects and again they stop paying taxes. Where it then goes to tax deeds some of them have been sheeted directly to the county, where no one bid on them. Many of them are still out there circulating in the public.

Applicant's Presentation

Stephen Vieira, 2309 Talbrook Terr., Punta Gorda, the applicant, excepts Ms. Shao as an expert. Comments that they do have an resolution in agreement in place with the county and we fully accept the conditions of the agreement.

Public Input

None offered.

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

Recommendation

Mr. Baker moved that **PV-24-02** 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 27, 2024**, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Izzo**; and carried by a unanimous vote.

Mr. Gravesen welcomed **Mr. Vieira** back onto the dais.

2.) PV-24-03

Legislative

Commission District I

John P. and Holly D. Keith are requesting to vacate a portion of Harbour Heights Section 11, Replat of Part Two, consisting of lots 2 through 17, block 187B, as recorded in Plat Book 6, Pages 13A through 13D, of the Public Records of Charlotte County, Florida. The applicant is requesting a plat vacation in order to comply with a settlement agreement with the County in association with Resolution Number 2024-023. The property consists of 82,698.9± square feet or 1.90± acres and is located at 27163 San Carlos Drive, in Commission District I.

Jenny Shao, Planner, provided the findings and analysis for Petition **PV-24-03** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

John Keith, the applicant, expresses he feels they are being restrictive on the amount of homes allowed in the future. He has 16 lots with easements on both sides. He feels he should have at least the original availability of the 3.5. If they restrict it to where it is now, should he decide to sub-divide and or sell in future, then he's really restricted.

Assistant County Attorney, Thomas David, asked Mr. Keith are you not going to accept the convenient that been offered? **Mr. Keith** expressed he has not seen the convenient and it's been mentioned about two houses. Which in that case he will not accept that. **Mr. Cullinan** the reason for this is the property that he purchased the main portion, on lots 7 & 8 were the only ones that actually had density on them. He purchased the other lots that had no density. This is one of the two properties that I mentioned previously where we missed the building permit. That this was with the conservation easement, with that, because he owns 7 & 8 as well which were not part of that conservation easement and had the density. That's the reason that he limited to two because that's the only amount of density that's left on that entire piece of property. Absent that, he could not be building anything. Had we caught that ahead of time before issuing the building permit we would not have issued the building permit. We have denied other building permits now that we have these new protections into place. With the protection in place, we are now catching these in the building permit stage. The properties he purchased did not have any density on them. **Mr. David** explained the issue with the covenant is once the conservation easement, which is what was placed on those lots, once that is released then that larger property would be subject to the RSF 3.5. Where you take the square footage of the property, and you would have more than 2 density units. However, all he has is the two density units available on it now. If the applicant is not going to agree to the restriction of the two units which is what his native density was, then maybe we continue it, because we are going to have a problem. **Mr. Baker** asked if it converts back and you have 16 lots and it's 3.5, and he didn't do anything, could he not transfer densities on those? **Mr. David** no, because there's no receiving. This is not a receiving area, that's the reason that all these lots have this issue. This is a sending zone only. The way the law works if the county makes an error in a permit, then the county is subject to damages, potentially, and the house would have to be removed. We essentially had this settlement agreement discussion for quite some time and have gotten to this point. We can move this along to the board and see if we can work something out.

There was a small discussion about the conservation easement process on these particular lots.

Mr. David the settlement that we entered into was to say if you combine the lots altogether and vacate the plat that way you can keep the two units of density from lots 7 & 8 across the entire parcel. There is not going to be anymore density other than that on that site, the 3.5 cannot be given.

Mr. Gravesen suggest forwarding this onto the Commissioners because the ending result is going to need to be the vacation of this property, so the two units can be developed on this property. The question being does he have recourse against the previous seller or against the title insurance? **Mr. David** we can't speculate on that but the reason the county entered into the settlement agreement was for the purpose of both parties acknowledging that it was not in anyone's interest to go and have the home removed. There was an error on both sides. There was no residential density on the lots where his home exists. Both parties acknowledge the mistake, and this is how we can fix it. We can move this onto the board and work on an agreement until then. No matter what this has to be fixed.

Public Input

None offered.

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

Discussion

Mr. Baker asked if the motion would be to go "as is"? Mr. Gravesen explained in his opinion that the correction of this issue, which is the conservation easement, because the density units have been transferred off by a previous owner. Therefore, it does not have the density other than two units. The correction of this is to vacate this plat and then the two units can be placed on this parcel as single-family units subject to the rest of the code.

Recommendation

Mr. Vieira moved that **PV-24-03** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated **August 30, 2024**, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Baker**; and carried by a unanimous vote.

3.) PP-24-03

Quasi-judicial

Commission District II

Tuckers Investment, LLC is requesting Preliminary Plat approval for a subdivision to be named, Willow Phase 2, being a replat of Tract F-2 of Tuckers Pointe Phase 1, as recorded in Plat Book 27, Pages 3A through 3Z29, of the Public Records of Charlotte County, Florida. The proposed subdivision consists of 281 residential lots, five lake tracts, a common tract, and one right-of-way tract. This site contains 77.96± acres and is generally located north of Tuckers Grade, east of Tamiami Trail, west and south of I-75, within the East County area, and in Commission District II.

Jenny Shao, Planner, provided the findings and analysis for Petition **PP-24-03** with a recommendation of approval based on the reasons stated in the staff report.

Questions for Staff

Mr. Vieira, he noticed in the staff report a letter from **Mr. Cullinan** to the Southwest Engineering and Design, mentioning that density may have to be transferred onto the site. Isn't there already sufficient amount of density in place for this development? **Mr. Cullinan** replied that he would have to deferred to **Jie Shao**. He believes this has already been transferred, but typically whenever we do a Preliminary Plat and subdivision like this we put that as a catch all. Which is why it says may need to be.

Applicant's Presentation

Dan Mumford, representing **Tuckers Investment, LLC**, we accept **Ms. Shao** as an expert. Explains that he is here to answer any questions they might have.

Public Input

None offered.

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

Recommendation

Mr. Izzo moved that **PP-24-03** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated **August 27, 2024**, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Baker**; and carried by a unanimous vote.

4.) PP-24-06

Quasi-judicial

Commission District I

Babcock Property Holdings, L.L.C. is requesting Preliminary Plat approval for a subdivision to be named, Midtown Parcel 4, being a replat of Tract E-48, of Midtown at Babcock Ranch, as recorded in Plat Book 27, Page 16A through 16Z9, of the Public Records of Charlotte County, Florida. The proposed subdivision consists of 216 lots and 19 tracts for residential development, roadway, drainage, and open space. The site contains 30.62± acres and is generally located south of Cypress Parkway, north of Saw Palmetto Parkway, west of the County line with Glades County and east of Babcock 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, Planner, provided the findings and analysis for Petition **PP-24-06** with a recommendation of approval based on the reasons stated in the staff report.

Applicant's Presentation

Erica Woods, representing the applicant, we accept **Ms. Shao** as an expert and is here to answer any questions.

Public Input

None offered.

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

Recommendation

Mr. Vieira moved that **PP-24-06** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated **September 4, 2024**, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Izzo**; and carried by a unanimous vote.

5.) Z-24-13

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) (109.767± acres) and Residential Multi-family 10 (RMF-10) (9.58± acres) to Parks and Recreation (PKR), for properties located at 1120 and 1185 Centennial Boulevard, in the Port Charlotte area, within the Murdock Village Community Redevelopment Area (CRA), containing 119.347± acres; Commission District IV; Petition No. Z-24-13; Applicant: Tina Powell, Charlotte County Parks & Natural Resources Divisions Manager; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **Z-24-13** with a recommendation of approval based on the reasons stated in the staff report.

Questions

Mr. Baker this is Centennial that's already been used as a park? Ms. Shao correct, this is to make sure the zoning is consistent with the use of the site as the park. **Mr. Cullinan** this is part of our ongoing project with community services to get all the parks with PKR zoning. **Mr. Gravesen** has the county already removed the density from these parcels? Mr. Cullinan being in the Murdock Village area, they didn't have any density. Ms. Shao this usage is a park and the Future Land Use Map (FLUM) designation, Murdock Village Mixed Use, doesn't meet the criteria for sending zone.

Public Input

None offered.

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

Recommendation

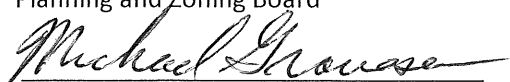
Mr. Baker moved that **Z-24-13** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff memo dated **August 12, 2024**, Charlotte County Comprehensive Plan along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

ADJOURNMENT

The meeting was adjourned at 2:14 p.m.

Accepted on behalf of the Charlotte County

Planning and Zoning Board



Michael Gravesen, Chair