

BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS

MAY 20, 2008

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Duffy, Commissioner Moore, Commissioner Cummings, and Commissioner Loftus. Also in attendance were Assistant County Attorney Browne, Interim County Administrator Baltz, Executive Assistant Dillon, and Minutes Supervisor Nice. Called to order at **9:00 AM** and followed by the Pledge of Allegiance.

Changes to the Agenda:

Deletion 1: Revision of Planned Development Zoning District - Legislative - Commission District II An ordinance amending the Planned Development Zoning District, Section 3-9-49 of the Charlotte County Code of Laws and Ordinances, regarding certain design criteria, development standards and procedures of the code; Applicant, Board of County Commissioners of Charlotte County.

Deletion 2: Revision to Zoning Definitions - Legislative - Commission District II An Ordinance Amending Chapter 3-9, Article I, Section 3-9-2, Rules of Construction; adding new definitions and amending the definition of open space; providing for conflict with other ordinances; providing for severability; providing for an effective date; Applicant, Board of County Commissioners of Charlotte County.

Addition 1: Discussion of the Revision of the Planned Development (PD) Zoning District, Section 3-9-49.

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

1. Discussion of the Revision of the Planned Development (PD) Zoning District, Section 3-9-49

Assistant County Attorney Browne explained the County Attorney's Office requested the first two items be deleted from the action agenda and replaced as discussion items only; recalled about 45 days ago, the Board directed staff to establish a focus group and bring back recommendations; the recommendations are ready for Board consideration; the first of three public hearings will be held before the P&Z Board on June 9 followed by the first public hearing before the Board on June 10 and a second public hearing on June 24, 2008 for possible adoption. **Chairman D'Aprile** commented on the importance of the deleted agenda items and allowing public input as well as comments from staff and Board Members. **(Board consensus to allow public input on the PD Zoning District ordinance.)** Chief Planner Williams gave a brief history of the proposed ordinance process starting with Board direction at the April 8, 2008 meeting to establish a focus group of citizen volunteers; the advertisement was published three times during the week of April 13, 2008; the intent was to establish a well balanced group; summarized the group membership; advised meetings were held on April 29, May 1, and May 5, 2008; the meetings were facilitated by a neutral mediator who has presented a final report to staff that is included in the packet; and staff has made changes to the proposed ordinance as a result of the report. Ms. Williams reviewed the proposed changes including language to allow stakeholders to be involved early on in the process; a neighborhood workshop needs to be held for the applicant to inform residents of the nature of the proposed development and solicit concerns and suggestions; a threshold has been added for applicability to all mixed used developments, any development proposing density of more than five units per acre, any proposed development for commercial/industrial/institutional uses of more than 30,000 square feet, or any development on more than three acres; the applicant is responsible for holding an advertised neighborhood workshop between certain hours and days of the week within two miles of the subject parcel if located within the Urban Service area or within five miles of the parcel if located in the Rural Service Area prior to submitting a Development Review Committee (DRC) concept plan application and within 9 months of the scheduled P&Z public hearing that parallels Sarasota County's ordinance; notice of the neighborhood

workshop is to be advertised in a general circulation newspaper in the County at least once seven days in advance of the workshop and notice is also to be given by mail seven days in advance to all property owners within a 500 foot buffer instead of 200 feet and to the president of any home or property owner associations within the buffer with notice sent to the Director of Growth Management; if the land is within the Rural Service Area, notice is to be given to all property owners within a 1,000 foot buffer of the boundary line and include a copy of the proposed concept plan and details on the proposed uses and development standards; final approval by the Board of County Commissioners has been added back into the ordinance; the Board has the ability to pull the item from the Consent Agenda and deny or require changes for compliance with the Comprehensive Plan; the Zoning Official must provide notification of minor modifications after concept approval as part of the meeting packet; barrier and key islands e.g. Manasota and Sand Piper Keys have been excluded except when relevant to the Manasota Key Zoning District Overlay as set out on page 5; a provision was added prohibiting modifications to height on barrier islands; language was added on page 1 regarding intentions on urban form and design in that they may differentiate neighborhoods, districts, and corridors and provide for a mixture of uses and housing types and provide specific measures for regulating relationships between buildings, buildings and outdoor spaces including public areas and street; a sentence was added, page 3, (c)(1), that the application of this district shall be made with reasonable consideration, among other things, to the character of surrounding neighborhoods and areas, the specific suitability of the proposed use, a view of conserving or enhancing the value of the natural environment and encouraging the appropriate use of land through the County; two conditions have been added to address the need for a trade off between height and open space for PDS requesting height relief in the 1,200 foot waterfront area as set out on page 6 the requires a developer to leave a 40% open view shed from a major right-of-way to open water and increase open/public space by the gross square footage of any portions of buildings over the 35-foot height limit and provide light and air in excess of current zoning regulations as required in additional language on page 1; staff made some minor changes and corrections as well as increasing the time limitation on the concept plan from three years with a one-

year extension to a total of four years; and offered to answer questions.

Chairman D'Aprile expressed concern interpreting open space e.g. indoor and outdoor. Ms. Williams explained uses of indoor and outdoor open public space and at least 50% must be outdoor open public space. **Chairman D'Aprile** questioned the percentage applicable open space given for heights above 35 feet. Ms. Williams explained the methodology based on gross square footage over 10%. **Chairman D'Aprile** announced public input procedures.

Steven Brown, Lemon Bay Conservancy, requested clarification on exclusion of "concentrated, energy efficient" on page 1 and the definition of indoor open space versus indoor public space as part of a building use.

Julius Frager, a member of the Focus Group, stated his first complaint arises from the nine hours only the Focus Group was allowed to work and only specific issues; commented on negotiating in the shadow of the law and what would happen if an agreement could not be reached; no one on the Focus Group was negotiating in the shadow of the law with preset versus a blank sheet for conditions e.g. height restrictions within 1,200 of a water body; suggested the Board consider capping waterfront heights at 65 feet and requiring certain minimum standards in a PD with possible enhancements.

Betsy McCallum, on behalf of the Manasota and Sandpiper Key Advisory Committee, commended the Board on directing establishment of the Focus Group and Focus Group members, the Board, and staff for all of their efforts; opined improvements have been made over prior drafts but suggested more specific language instead of leaving certain areas open to interpretation and limiting the height in Category I Surge or Red Zones; and thanked the Board.

Sue Reske, on behalf of the Greater Charlotte Harbor Group of the Sierra Group, requested action be delayed on changes to the zoning regulations based on the handout including the need for better public notice, a minimum of 20% open space instead of 10% with added open space for height, establish a minimum lot size

for PDs, remove the last sentence under community enhancement definition as read into the record, and language relevant to the 65 height limitation need not be restricted to only residential structures.

Brad Kelskey questioned what is the rush; the agenda initially had this item on as a public hearing and then it was deleted and replaced as a discussion item; the Focus Group was only allowed nine hours to work on the issues; there has not been enough time for review, consideration, and public input on the proposed ordinance that was put on line yesterday; and suggested the Board extend the time for Focus Group and public participation.

Chairman D'Aprile stated there will be many more public hearings on this ordinance and commented on the importance of providing another opportunity for public input today. Chairman D'Aprile requested Board comments. Commissioner Moore opined the Focus Group did negotiate in the shadow of the law, the Board will make the final decision, and expressed appreciation for all of the public participation.

A. Planning and Zoning Agenda

(Minutes Supervisor Nice administered the oath for Agenda Items 3, 4, and 5.)

3. PA-06-07-52-LS - Legislative - Commission District II Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map (FLUM) Amendment amending the Charlotte County Comprehensive Plan from Low Density Residential, Commercial Center, Commercial Corridor, and Low Intensity Industrial to Mixed Use Development of Regional Impact [DRI]; for property located east of Burnt Store Road, southwest of Taylor Road, and northeast of Tamiami Trail (US 41), containing 204± acres, in the Punta Gorda area; Applicant Wilder/BN Jones Loop Holdings, LLC.
Recommendations: Growth Management Department: Denial
Planning and Zoning Board: Approval

Growth Management Director Ruggieri summarized staff's position, as of last Friday at 2:00 PM, was to recommend denial; there have

been ongoing meetings with the developer to resolve issues; the application was sent to DCA and three recommendations were made of which two of the three have been satisfied; the unresolved recommendation is the methodology to address the failure of the US 41 segment that would be attributable to this development; the agreement in the packet places the burden of those improvements upon the County for which funding of about \$13 million will need to be identified and this is not supportable by staff; a meeting with the developer was held last Friday afternoon to allow construction of US 41 improvements and widening of Jones Loop from Taylor Road to I-75; concurrency does not indicate any failure of Jones Loop Road but concurrency standards indicate failure of US 41; the most recent agreement includes language for the establishment of a Community Development District (CDD) to pay for the concurrency related US 41 improvements with an interlocal agreement to allow the developer to construct the Jones Loop widening as well as provide for reimbursement of construction related improvements as development occurs and created by incremental revenue increases as a result of The Loop development; staff agrees with the concept of a private public partnership to meet fiscal restraints. Mr. Ruggieri stated there are still some unresolved issues but staff and the developer are meeting to resolve the issues and recommended approval of the agreement; staff needs to determine the cost of the US 41 concurrency improvements that has been estimated at about \$9 million per lane mile which will impact the proportionate share calculation; another unresolved issue involves the County paying for non-agreed upon costs which is not supportable at this stage; and there are significant differences in transportation impacts from \$31 million to \$12.7 million that need further review as well as identifying funding sources. Mr. Ruggieri commended staff's efforts and recognized Tom O'Kane, Dan Quick, Don Root, and Ray Sandrock; opined representatives of The Loop have been good to work and willing to compromise; and reiterated this project would be a great asset to the community.

Planner Seann Smith presented the petition with a slide presentation to amend the Charlotte County Comprehensive Plan FLUM designations on 202.51 acres; the petition was transmitted to DCA in November 2007 for an Objections, Recommendations, and Comments (ORC) Report; staff has subsequently addressed DCA's

concerns regarding transportation; recommended denial; and advised changes on being made by the petitioner as late as of this morning. **Chairman D'Aprile** questioned staff's recommendation for denial. Mr. Ruggieri recommended approval with conditions including funding of the reimbursement to the developer possibly through a CDD. Mr. Ruggieri reiterated approval with conditions and pointed out he does not have all of the conditions in writing as of this time. **Chairman D'Aprile** indicated reluctance to move forward at this time and expressed concern about the reimbursement sources. Mr. Ruggieri advised the Fiscal Analysis utilized for Babcock Ranch would be used again to determine the net benefits on this project, reported Mr. Sandrock would be working with the developer, and pointed out Mr. Root has economic benefit analysis software that can be utilized relative to this project. **Chairman D'Aprile** requested additional information. Budget Director Sandrock recommended the Board step back at this time, commented on investments needed by the County and the importance of make funding priorities, offered to work on the model and bring back funding options. **Commissioner Cummings** questioned the source e.g. impact fees, sales and gas taxes. Mr. Sandrock opined if justification exists to make the project work, funding could be utilized from gas tax revenues and ad valorem funds. **Commissioner Cummings** questioned the time frame e.g. five years. Mr. Ruggieri reported the CDD would construct the improvements. **Commissioner Cummings** compared two traffic models at 12 versus 30 and expressed concern about concurrency failure; pointed out US 41 speed limits are lower than on Taylor Road and opined more traffic will use Taylor Road for a faster route; again referred to the train wreck waiting to happen and pointed out the lack of available monies in gas taxes, impact fees, and ad valorem revenues. **Commissioner Moore** agreed this is a good project; recognized staff's efforts; and requested input from the developer. **Chairman D'Aprile** stated the project seems viable but he cannot make a decision without specifics as to the conditions. Attorney Browne suggested delaying Board action until the June or July land use meeting to allow staff more time. **Commissioner Duffy** questioned denial by DCA if no Board action is taken today. **Chairman D'Aprile** expressed concern about approving the project agreement without specific conditions. Mr. Ruggieri commented on the need for staff to continue working with the developer to iron out issues.

Attorney Ted R. Brown, Baker and Hostetler LLP, appeared on behalf of petitioner; stated unresolved issues exists but petitioner is willing to work with staff; noted staff's recommendation for denial based upon the projected US 41 concurrency failure; explained initially this was a phased development; commented on four roadway segments that might be adversely impacted by this development and uncertainties of outcomes regarding traffic impacts based on Public Works and petitioner's engineer models; reported he has met with Mr. Ruggieri and agreed that petitioner would do certain improvements and the County would enter into an agreement with the CDD on funding; he revised the proposed development order over last weekend, presented it to staff on Monday, and referenced the letter sent to each Board Member; Jim Finwick indicated Board Members' concerns about the FIAM model being used as was done with Babcock Ranch e.g. the Loop will add sufficient additional revenue to Charlotte County to fund the difference of funding from the CDD for the improvement or at the very least funding totally from the CDD if County funds are not available. Attorney Brown commented on his conference with the Southwest Florida Regional Planning Council (RPC) representatives especially on striking the net fiscal benefit as found in the FIAM model and writing in the interlocal agreement that will establish a fiscal monitoring program to determine the net fiscal benefit of The Loop development. Attorney Brown expressed the belief that the CDD will probably have to be established and bonding prior to determining revenue funding mechanisms; proffered revisions to the development order; and requested approval subject to the additional changes along with the development and interlocal agreements. Attorney Brown pointed out the Board will have a complete document with hand written changes to be made for approval today in order to proceed through the DCA and PD processes. (Attorney Brown gave hand written changes to the Board and a copy was received by the Clerk for filing with the record).

Commissioner Duffy questioned the viability of the CDD. Attorney Browne reported outside counsel, attorney Mark G. Lawson with the law firm of Bryant, Miller & Olive P.A., works on these types of issues for the County. **Commissioner Duffy** questioned the development order on allowed and placement of uses. Attorney Brown referenced Map H-1 showing residential on both sides of

North Jones Loop Road, south on Jones Loop Road, and above retail on the main street concept based on market conditions that might allow conversion of retail to residential above retail space. **Commissioner Duffy** expressed concern about pedestrian safety of crossing over Jones Loop Road. Attorney Brown explained the traffic flows including intersection, turn, and deceleration lane improvements and pedestrian improvements. **Commissioner Duffy** requested verification of the 50/50 County share. Mr. Ruggieri estimated about \$6 million of the \$12 million cost estimate. **Commissioner Loftus** expressed concern about pedestrian safety. Attorney Brown indicated pedestrian lights would be included in the improvements.

Connie Kantor, a member of the Economic Development of the Punta Gorda Chamber of Commerce and 800 members, expressed enthusiastic support of the project and future endeavors in this community, stated this is a win/win project for everyone, and urged Board approval. Nancy Prafke, CEO of Team Punta Gorda, commented on the economic benefits of the proposed development including additional jobs, ad valorem revenues and increased tax base; reported on a Team Punta Gorda meeting with over 300 people that received unanimous support for the project; the project will bring dollars from people that drive from Cape Coral and many other areas and provide diversification of the tax and economic base for the community and provide more amenities; it will encourage growth; and urged the Board to consider the positive impacts. John Wright, President of the Punta Gorda Chamber of Commerce, on behalf of the Chamber and over 800 members, commented on numerous meetings with the developer; recalled not one member has opposed The Loop project; requested the Board to consider the petitions favorably and for staff to work diligently to resolve disputes expeditiously and effectively in order to allow the project to move forward. Patti Pierron, General Manager of Fishermen's Village, commented in support of The Loop as a means to bridge the gap between season and non-season to provide a triangle of development for tourism e.g. The Loop, the Event Center, and downtown Punta Gorda; and requested Board approval. Bruce Laishley commented in support of the project by referencing the 480,000 square feet project in Orlando that is expanding another 400,000 square feet; he has a home near that mall and most of the time is shops at The Loop Mall in Orlando that has provided easy and convenient shopping; this project will

give the County a much needed shot in the arm; this is a tremendous opportunity for Charlotte County to provide an economic boost by providing 2,400 jobs and bringing in more businesses that will increase the ad valorem tax base; this project for be good advertisement for Charlotte County; pointed out Charlotte County has lost out on a Wal-mart distribution center, Publix warehouse/distribution center, and Sky Bus; and reiterated support. Maria E. Giordano expressed confusion about how the Board can approve the project since the developer does not own all of the land in the project area and rezone leaving one lot as residential and opined the Board would set a very poor precedent by approving this amendment. Lori Campbell stated she spoke during the October 2007 meeting; her property is located on Burnt Store Road; commented in support of the project based on benefits to the County but she has a concern about what is going to happen on the segment of Burnt Store Road that she lives on near US 41 in the two-lane area and improvements to that road with additional lanes and signalization at the intersection.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

Commissioner Cummings requested an opinion from Attorney Browne on whether the applicant has the right to waive the deadline in view of the RPC decision that the developer may waive the deadline. Attorney Browne stated waiver would be possible as long as the applicant and staff agree, pointed out a large scale plan amendment is tied to a PD, and referenced staff's recommendation for denial. **Commissioner Cummings** recalled everything under the FIAM model has a negative affect on the net fiscal impact as found by the RPC and questioned the use of net fiscal impact for reimbursement and the definition of reimbursement e.g. revenue to the County organization or economic in the traditional sense. Mr. Sandrock stated it would be direct income to the County with expenses netted out versus the overall impact on the County. **Commissioner Cummings** requested Mr. Sandrock's opinion if the model used for economic development is a pretty good model.

Mr. Sandrock stated he has worked with models on Babcock Ranch and with Fishkind's Group to come up with a specific model using

conservative factors on what is attributed to the County and recommended this process. **Commissioner Cummings** commented in support of the development project; pointed out the lion's share of the development is retail; expressed concern about pedestrian safety; there are some arguments that this project may create and bring more development to the community although there are concerns about roadway concurrency failures; stated the money has to be there to maintain concurrency and his concern would be eliminated if the CDD is to maintain concurrency; commented on his reluctance to pay \$12 million to shop at The Loop development or pay \$24 million to fill a hole; opined a development of this magnitude will impose costs on others in the community above and beyond the roadway because of the established cap recently imposed on counties; and stated he wants to see the project happen but the County does not have the money to pay for it. **Commissioner Moore** commented on the importance of knowing the revenue sources and reimbursements; referenced issues faced by Kitson and Partners relevant to Murdock Village and the establishment of a CDD to pay for infrastructure that, if the worst possible scenario occurred, the County would have had to pay the Murdock Village debt and infrastructure costs inherited from the CDD, and requested the risk to the County even if a CDD is established. **Chairman D'Aprile** requested answers from Attorney Brown specific to Commissioners' concerns. Attorney Brown stated the difference is that the County owns Murdock Village land which is not the case with this project, the only relationship the County would have would be through the interlocal agreement, and explained the County would have nothing pledged and no liability by default. **Commissioner Loftus** expressed appreciation for the clarification about the US 41 concurrency being addressed because that was a big concern and stated as long as the CDD works as proposed, he would be satisfied. **Chairman D'Aprile** opined the project seems a well worth development and requested assurance that the letter from the RPC is made a part of the record. Mr. Ruggieri agreed. **Chairman D'Aprile** requested verification from Attorney Browne about pay back on road improvements done by the developer. Attorney Browne expressed understanding that instead of FIAM the formula for payback would be agreed upon by the County. Attorney Brown clarified the language relating to the FIAM model was placed in the original agreement because he believed it was acceptable to the County since it was used

relating to Babcock Ranch and it has been deleted; there will be a mutually agreed upon methodology developed as part of the interlocal agreement process; reiterated concurrency will totally be in compliance; the CDD would issue bonds with a capitalized interest reserve for three years built into the formula to cover debt service from borrowed capital until bond liquidation after entry of an interlocal agreement with the County that will define accountability for the monies; the CDD would cover the annual share if the County does not have available "cash in the drawer" or the County would pay its share if and when funds are available. **Commissioner Cummings** recognized Mr. Ruggieri's efforts to resolve issues; a traffic monitoring program will be initiated to identify traffic impacts as a result of this development; if specific traffic from this development triggers concurrency drops in service unacceptable to DCA and have to be addressed, the CDD will pay those costs and there would be another model on the net fiscal impact monitoring so that reimbursement is equitable. Mr. Ruggieri stated the County would still need to identify sources. **Commissioner Cummings** concluded that a long-term revenue stream would be available. Mr. Ruggieri agreed. **Commissioner Duffy** requested clarification of "cash in the drawer." Attorney Brown stated he used that language in the context of a retail operator, pointed out other economic impacts must be considered in the economic modeling, and expressed confidence that staff and Fishkind representatives can develop a mutually agreeable methodology. **Commissioner Duffy** recalled Fishkind was requested to do an incremental tax impact study and the methodology can be beneficial to the County. **Chairman D'Aprile** stated, hopefully, all Board questions have been answered.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-044 AND PA-06-07-52-LS FILED BY WILDER/BN JONES LOOP HOLDINGS, LLC WITH THE CONDITION THAT THE METHODOLOGY BE WORK OUT BETWEEN THE COUNTY AND PETITIONER ON TRAFFIC IMPACTS AND CONCURRENCY AND THE CONDITIONS PROPOSED BY THE RPC, SECONDED BY COMMISSIONER MOORE.

Commissioner Cummings concluded the motion is to approve the ordinance and petition, incorporate RPC's recommendations, and address transportation issues in order to maintain concurrency levels and create a net fiscal model with monitoring as described by staff. Attorney Browne stated the errata sheet concerns the

Development Order in the next agenda item. **Commissioner Cummings** stated the conditions should be applicable to all documents pertaining to this development. Mr. Ruggieri indicated staff and petitioner will try to mutually agree on a methodology and funding. **Commissioner Loftus** concurred.

Motion Carried 5:0.

4. The Loop Roadway Development Agreement - Legislative - Commission District II Conduct the second public hearing to consider entering into a Roadway Development Agreement formulated to comply with the Florida Local Government Development Agreement Act (s. 163.3220) for The Loop DRI. The land subject to the Development Agreement consists of 204± acres located east of Burnt Store Road, southwest of Taylor Road, and northeast of Tamiami Trail (US 41), in the Punta Gorda area. The Loop DRI proposes 500 residential dwelling units, 1,200,000 square feet of retail space, 100,000 square feet of office space, and 200 hotel rooms. The Development Agreement addresses the impacts to the County's roadways.

Recommendations: Growth Management Department: Denial
Planning and Zoning Board: Approval

Planner Smith presented the proposed development agreement including conditions worked out today and recommended approval. **Commissioner Cummings** questioned inclusion of the transportation/concurrency monitoring and net fiscal impact modeling will be included in the Development Agreement. Mr. Ruggieri pointed out the monitoring and concurrency methodology will probably be addressed in the Interlocal Agreement. Interim County Administrator Baltz requested clarification of the end result will provide the US 41 improvements and those costs. Mr. Ruggieri stated they were estimated at \$12.46 million but the latest information from Florida Department of Transportation is about \$18 million and petitioner will do the work with repayment will be worked out either through impact fee credits or the CDD. Mr. Baltz requested an explanation on the funding from the County. Mr. Ruggieri stated the CDD will fund it and the County will make reimbursement based on certain conditions or possibly up to \$20 million. Mr. Baltz stated some of the anticipated work

has not been included in these documents. Mr. Ruggieri agreed. **Commissioner Moore** questioned if the two motions should include authorization for the Chairman to sign. Attorney Browne stated it is implied. **Chairman D'Aprile** opened the public hearing.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO APPROVE AGREEMENT 2008-021 WITH THE CONDITION THAT THE TRANSPORTATION METHODOLOGY WILL BE WORKED OUT BETWEEN STAFF AND THE DEVELOPER, SECONDED BY COMMISSIONER CUMMINGS.

Commissioner Cummings stated he wants to make sure that if monitoring shows other roadway segments failure as a result of this development, that these conditions would address those failures. Attorney Browne agreed. **Commissioner Cummings** concluded concurrency will be maintained.

Motion Carried 5:0.

5. DO-07-12-02 - Quasi-Judicial - Commission District II
Pursuant to Section 380.06(11), Florida Statutes, the Charlotte County Board of County Commissioners is holding a public hearing to consider a request for approval of a development order for The Loop; for property located east of Burnt Store Road, southwest of Taylor Road, and northeast of Tamiami Trail (US 41), containing 204± acres, in the Punta Gorda area; Applicant Wilder/BN Jones Loop Holdings, LLC.
Recommendations: Growth Management Department: Denial
Planning and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and all Board Members had numerous disclosures.)

Planner Smith explained the purpose of the public hearing to approve a development order for The Loop development and requested approval with conditions. **Chairman D'Aprile** announced public input procedures. Jason Utley, on behalf of RPC, handed out a letter containing recommendations into the development order, he has not had an opportunity to review revisions

submitted by Attorney Brown, and requested incorporation of the roadway development agreement into the development order. Attorney Brown requested time to address items listed in the RPC letter if Board Members have questions, pointed out each item in the RPC letter has been addressed and consensus with the RPC has been achieved, there are no deficiencies that have not been addressed, and requested the Board approve the development order as proffered on Monday morning. Laurie Campbell questioned if traffic issues including the intersection in her area would be addressed. **Chairman D'Aprile** explained the traffic engineer will make that determination. Attorney Brown indicated months of engineering was spent on redesigning the North Jones Loop Road just east of the railroad tracks, it was his understanding that the County had already appropriated funding for the Jones Loop/Burnt Store Road project, and now he is uncertain about engineering concerning improvement to US 41 based on the Board's action today.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

Commissioner Moore requested verification that RPC has reached an agreement with the petitioner on the issues in the letter. Mr. Utley advised the letter was included in the amendment to the Comprehensive Plan. **Commissioner Cummings** stated RPC conditions would be included into the development agreement.

COMMISSIONER LOFTUS MOVED TO APPROVE RESOLUTION 2008-047 WITH THE CONDITION FOR STAFF AND PETITION TO WORK OUT THE TRANSPORTATION CONCURRENCY METHODOLOGY TO COMPLY WITH CONCURRENCY STANDARDS, SECONDED BY COMMISSIONER MOORE.

Commissioner Cummings stated, in response to Ms. Campbell's concern, transportation issues would have to be addressed if concurrency levels fall below the adopted level.

Motion Carried 5:0.

RECESS: 11:35 AM - 11:45 AM

6. PA-08-01-01 - Legislative - Commission District V An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the Future Land Use Map of the Charlotte County Comprehensive Plan from Commercial Corridor to US 41 Mixed Use (no residential allowed), for property located at 3362 Tamiami Trail (U.S. 41), in the Port Charlotte area, containing 1.34± acres; Applicant: Save It All Self Storage, LLC.

Recommendations: Growth Management Department: Approval
Planning and Zoning Board: Approval

(Minutes Supervisor Nice administered the oath for Agenda Items 6 and 7. Chairman D'Aprile polled the Board for ex parte disclosures and there were none.)

Planner Tom Scott presented the petition based on a slide presentation of the site located on the northeast corner at the US 41 and Harbor Boulevard intersection and adjacent areas and requested approval of the land use amendment and rezoning with 15 conditions as well as enhancements agreed to by petitioner and included in the staff report. Attorney Berntsson joined in staff's report, conditions, and recommendation, advised the storage will be indoors, air-conditioned, and multi-storied for document storage, the building will be an asset to the community with a clock tower and enhanced landscaping, and offered to answer questions. Chairman D'Aprile announced one presentation would be applicable to both agenda items with individual motions and votes.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

Commissioner Duffy questioned if the facility will be on the entire block. Attorney Berntsson explained the location of the four-story building and reduced parking as approved under a special exception under the current PD ordinance.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-045, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

7. Z-08-01-02 - Quasi-Judicial - Commission District V An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Commercial Intensive (CI) to Planned Development (PD), for property located at 3362 Tamiami Trail (U.S. 41), in the Port Charlotte area, containing 1.34± acres; Applicant: Save It All Self Storage, LLC.

Recommendations: Growth Management Department:

Approval with conditions

Planning and Zoning Board:

Approval with conditions

Chairman D'Aprile requested a motion for approval.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-046 WITH THE 15 CONDITIONS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

8. PV-08-02-06 - Legislative - Commission District IV Charlotte County Board of County Commissioners, and the Parks, Recreation and Cultural Resources Division, has applied for a Plat Vacation to vacate the First Replat of a Portion of Port Charlotte Subdivision Section Seventy Seven. The site, consisting of 40.3 acres, more or less, is located south of Edgewater Drive, east of Sunrise Waterway, and west of East Spring Lake Waterway in Sections 27 and 28, Township 40S, Range 22E.

Recommendations: Building Construction Services Department:

Approval with one condition

Planning and Zoning Board: Approval with one condition

Land Development Supervisor Barbara Jeffreys gave a slide presentation on the joint petition for a replat of the subject property known as Sunrise Park comprised of 48 lots and requested approval. **Commissioner Loftus** questioned what would occur with the 48 units. Mr. Ruggieri explained the units would be deleted from the platted lot inventory and reduce the number of platted lots as required by the Comprehensive Plan. **Commissioner Moore** stated if Florida Communities Trust funds were involved, the

County would have no choice and would need to forfeit the units and suggested discussion at a later date on eliminating platted lot units that might be utilized for future use.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO APPROVE RESOLUTION 2008-048 WITH ONE CONDITION, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

9. SV-08-02-05 - Legislative - Commission District II I-Park of ACC, LLC, along with Southwest Land Developers, has applied for a Street Vacation to vacate the entire right of way known as Holmes Boulevard between the north boundary line of Ameropa Drive and the south boundary line of Woodlawn Drive, located in Woodland Acres Subdivision. The site, consisting of 0.13 acres, is located in Section 14, Township 41S, Range 23E.

Recommendations: Building Construction Services

Department: Approval

Planning and Zoning Board: Approval

Planner Jeffreys presented the petition including slides to show the site, FLUM and zoning designations, and requested approval based on receipt of a signed/sealed survey. **Chairman D'Aprile** opened the public hearing. Bruce Younker, Vice President of I-Park of ACC, LLC, the applicant's agent, stated that 9 feet by about 620 feet are useless and two feet of the 9 feet are in a drainage slope area that improperly functions.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO APPROVE RESOLUTION 2008-049, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

10. PA-07-12-94-LS - Legislative - Countywide Pursuant to Section 163.3184(3), Florida Statutes, adopting a Large Scale Plan Amendment to the 1997-2010 Charlotte County Comprehensive Plan, adding a Water Supply section to the Infrastructure Element, and amending the Capital Improvements Element and the Intergovernmental Coordination Element; Applicant Charlotte County Board of County Commissioners.

Recommendations: Growth Management Department: Approval
Planning and Zoning Board: Approval

Planner Trepal presented the petition for text amendments to the 1997-2010 Comprehensive Plan as set out in the memorandum updated May 7, 2008 and required for water supply concurrency by Senate Bills 360 and 440; commented on several conference calls with DCA subsequent to the transmittal and ORC report to discuss the original transmittal and proposed revisions based on DCA recommendations; advised DCA representatives have commended staff; and they are satisfied with the outcome.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2008-047, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Loftus stated he is not comfortable with the issue of 225 gallons per ERU as well as the wastewater.

Motion Carried 5:0.

Chairman D'Aprile concluded the morning session and announced the topic of the 2:00 Presentation. **Chairman D'Aprile** requested comments from Board Members. **Commissioner Moore** advised he will not be available for budget meetings scheduled on Wednesday and Friday this week. **Chairman D'Aprile** requested clarification on use of Room 119 by the general public based on a request from the Curmudgeon Club. **Commissioner Moore** expressed understanding that the Board would have discretion, offered to provide data from other counties, and opined the room should be used for government purposes. **Commissioner Loftus** agreed that the

room should be used strictly for government use. **Commissioner Duffy** stated she is on the fence citing meetings of the Curmudgeons and League of Women Voters and expressed concerns about additional costs to the County for security, Facilities Management, and a recorder for town hall meetings with two or more Commissioners present. **Commissioner Cummings** stated no and his position remains the same as in the past. **Chairman D'Aprile** concluded Room 119 will be used for only government purposes.

B. Presentation - 2:00 PM

Administration, Presentation by Bob Hebert on hurricane recovery funds for "New Operation Cooper Street Recreation Center.

Recovery Director Hebert recalled staff was directed to bring back a conceptual proposal for funding options for the first phase; a funds are coming from the \$9 million Community Development Block Grant (Hurricane Recovery grant) that expires February 28, 2009; stated all funds must be expended or it would go back to the Federal and State governments; about \$525,000 is available through reallocation of projects under the grant; the City owns the building and they have committed \$100,000 towards the project; the City will need to go out to bid; estimated \$450,000 would be needed for the first phase so no additional funding is necessary; and requested approval for staff to reallocate the funds and authorize the Chairman to sign the necessary documents. Mr. Hebert reported the Center qualifies for Hurricane Recovery funding since it was damaged and shut down following Hurricane Charley for about three months and also there is some qualification as to the low to moderate income children who attend the facility. **Commissioner Loftus** indicated no objection to shifting the funds but expressed concern about the difference in engineering costs. Mr. Hebert stated the original estimate for engineering work was \$600,000, now there is a gap of about \$400,000 and advised Utilities Director Jeff Pearson is in attendance to answer questions. **Commissioner Loftus** recalled \$1.2 million for construction and \$600,000 for engineering; it is way over on the engineering; opined the 1995 design of a gravity system per unit was \$11,000 and a low pressure design came in about a year later at about one-third of the cost for the low pressure system; and he has a problem with spending \$600,000 for re-engineering. **Chairman D'Aprile** agreed as to large amounts of

money spent on engineering but these are the numbers submitted. **Commissioner Moore** pointed out engineering costs have been reduced from \$600,000 to \$400,000 plus the \$1.2 million for construction. **Commissioner Loftus** stated \$600,000 has already been spent, that amount should not have been spent because the preliminary designs were done in 1995 for the low pressure and gravity sewer systems, the facility is under construction, it is wrong to charge the CRA residents for the \$200,000, and the \$600,000 is over the 10% maximum allowed for engineering based on the \$1.2 million construction cost. **Commissioner Duffy** requested an explanation regarding the \$200,000. **Commissioner Loftus** explained 10% of the \$1.2 million construction would equate to \$100,000+. Mr. Hebert stated the grant requirements allow \$174,000 to be paid for engineering, a petition has been filed to increase it an additional \$200,000, and the County and/or CRA will need to make up the difference. **Commissioner Moore** concluded \$174,000 of grant monies may be expended for engineering. Utilities Director Jeffrey Pearson explained the total amount for contract fees for non-design related fees and design-related fees for services is about \$620,000 that can be considered engineering for the final design and the \$174,000 is based on the Farmers Curves e.g. 10% of the total construction costs. Mr. Pearson recalled the original estimate was \$2.8 million, the engineering started in late 2005 or early 2006 for gravity and low pressure sewers. **Commissioner Moore** concluded the County MSBU will be on the line for \$446,000. Mr. Pearson agreed. Mr. Hebert stated the grant will end up with about \$400,000 to be expended by the end of February 2009. **Chairman D'Aprile** clarified **Commissioner Loftus'** concern is relative to monies spent on engineering that was not necessary. Mr. Pearson stated a new gravity system was not designed during the initial stage but a comparison of gravity versus low pressure sewers and the Board decided to go with the lower cost low pressure system since the gravity system was about twice as much. Mr. Pearson stated today's circumstances were considered and assumed that the scope of work would have considered low pressure sewers that generally have a lower up front costs for customers but in the long run it was a wash. **Commissioner Loftus** opined a lot of money has been wasted. **Commissioner Cummings** stated the item for discussion is reallocation of grant funds on this project which is a good public use of the funds.

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COMMISSIONER CUMMINGS MOVED TO ACCEPT STAFF'S RECOMMENDATION TO REDIRECT CDBG FUNDS FOR USE ON THE NEW OPERATION COOPER STREET FACILITY AND AUTHORIZE THE CHAIRMAN TO SIGN THE NECESSARY DOCUMENTS TO SEND TO THE DEPARTMENT OF COMMUNITY AFFAIRS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

ADJOURNED: 2:25 PM

Signature on file in Commission Minutes
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

djn