

LAND USE PUBLIC HEARINGS

BOARD OF COUNTY COMMISSIONERS

JANUARY 18, 2005

A meeting of the Board of County Commissioners for Planning and Zoning Land Use petitions was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Sara Devos and Commissioners Thomas G. Moore, Adam Cummings, Thomas C. D'Aprile and Matthew D. DeBoer. Also in attendance were County Administrator Bruce D. Loucks, Assistant County Attorney Louis Whitehead and Deputy Clerk Karen S. Mitchell. The meeting was called to order at **9:02 A.M.** followed by the Pledge of Allegiance to the Flag.

PLANNING AND ZONING AGENDA

Bruce D. Loucks, County Administrator, stated **Agenda Item 17, Murdock Village Community Redevelopment Plan** was being deleted because it was placed on today's agenda in error.

Agenda Item 1 - Manasota and Sandpiper Key Zoning District Overlay Code (Proof of Publication was in Order.)

Jorge Perez, Planner III, gave a slide presentation titled Manasota Key Zoning District Overlay Code which paralleled the material and detailed the following: Area of interest; Scope of today's presentation; Manasota Single-family district (MSF); Manasota Multi-family district (MMF); Combination of lots and units; Combination of lots (currently); Combination of lots as proposed; Combination of lots (alternative); Building height; Manasota Commercial Tourist (MCT); Manasota Commercial General (MCG); Manasota Environmentally Sensitive (MES); Special exceptions; New development review; and Not in this presentation. **Commissioner Cummings** asked the difference between sport and resort marinas versus regular marinas. Mr. Perez explained marinas being prohibited were dry lot marinas because they allow for all the repairs and maintenance of boats and a wet marina was okay but live-aboards and probably shower facilities would be prohibited. **Commissioner Cummings** opined the blue belting program needs to be brought back and asked if an Adult Congregate Living Facility (ACLF) would be allowed.

Mr. Perez responded yes as special exceptions in the MMF areas. **Commissioner Cummings** asked if the same thing applied to adult and child daycare facilities. Mr. Perez said they were not allowed in the MMF unless they did it as a reasonable implication within that district. **Commissioner Cummings** asked why personal services were excluded from MCG. Mr. Perez responded it was the consensus of the Manasota and Sandpiper Key Advisory Committee (MASKAC). **Commissioner Cummings** asked if a nail salon or package/corner stores were allowed. Mr. Perez said yes in the MCG area. **Commissioner Cummings** said he asked these questions because of the need to reduce trip generation on and off the island, opined they should have areas like this where there may be a set height level, said he doesn't want this to become like the east coast and they need to look at the height issue outside the context of this hearing because this was a special district. **Commissioner D'Aprile** complimented Mr. Perez on his concise presentation which was very easy to understand and asked what happens to the existing metal buildings since the new regulations will prohibit them. Mr. Perez responded the non-conforming structure provisions of the code would still apply and all regular maintenance that does not alter the shape, size or character of the metal structure will be allowed to continue until such time as that building would be destroyed by more than 50% of its use but new metal buildings would not be permitted under the new proposed overlay. Judy Hofstetter said it was important to ensure Manasota Key was as protected as possible from over-development and high rises, opined the lower the profile of the homes the less damage sustained from storms especially since there will be more hurricanes and reiterated the need to ensure development was done responsibly. Ralph DiCarlo said he bought property for investment years ago, it was part of three parcels subdivided back in the 1970's, asked the Board not to support this as proposed as it affects his property rights and stated his issues were: density reductions were zero in some areas but in the area affecting his property the reduction is 25%, i.e., RMF-10 to RMF-7.5, so it's not consistent; the proposed setbacks would make it impossible for him to build if they apply to each lot even if combined; stormwater run-off was more an issue with non-compliant existing buildings than with new construction; and suggested giving property owners a two year grace period to submit for permitting. Darlene Antle opined it was easy to get caught up in development but the island's beauty gets lost in

the multitudes of people coming onto the island and said they all need to protect this island and it's natural beauty. Paul Brown stated he owns one of the three lots with Mr. DiCarlo, current and future condominium developments allow more people to live and enjoy the island, the new property lines will severely limit his development ability, and agreed a balance was needed but said they also need to provide condominiums for people to live in. Scott Landry said he resides on the barrier islands and he was concerned about fires and accessibility by emergency equipment. James McCarthy agreed with Mr. DiCarlo, said the setbacks were unreasonable and inconsistent to those who own 50' lots zoned for RMF-10 and asked that this be revised so they can get the best out of their investments. David Lipstein said with the new guidelines most homes couldn't be rebuilt if they were damaged over 50%, the plan wasn't fair to condominiums, opined the proposed changes result in the taking of private property and added that making it retroactive results in affecting projects in the process for over a year. Bruce Blak, AIA, said as an architect for over 40 years he's designed buildings on the key, he's had problems getting clarification on items such as the Coastal Construction Line on page 25, he represents a group called Unicorn who owns property zoned CT where they planned to construct town homes which would no longer be allowed and asked what they would be classified as now. Debbie Weston said she had some real concerns, she was very environmentally sensitive but she doesn't want property rights taken away from people, and pointed out she's been told by the Property Appraiser's Office she's being taxed not only on what vacant property she has but also on the capability of what she could possibly do with them, so if the County reduces her rights then she's paid taxes for nothing. Toni Orr said back in 1979 her mother purchased one of the three lots Mr. DiCarlo talked about, it was the previous owner who subdivided the property with the possibility of putting it all together for future development as it was zoned for condominiums and now as the only heir she was losing her property development rights. Bill Stiver said he lives on Sandpiper Key, during the zoning meeting the ordinance was passed with major considerations that needed to be given, one issue was the height difference between CT and CG, another was the difference in the FEMA height requirement versus above sea level requirement, a property owner with a higher piece of property wouldn't be able to build the same structure as someone with a lower piece of property because of having to meet the

FEMA requirement and opined these changes almost eliminate any three-story commercial construction. Mr. Stiver said he didn't understand the other uses taken away from CG areas and some of the changes made or proposed were a lot different than the original plan. Drake Bliss said he owns vacant property in Lemon Bay Estates, his issue was with the change in the set-backs to 10 feet which will take away his building rights, his lot was fairly high so he was concerned he wouldn't have enough space between the ground level and his first floor in order to put parking underneath it, and with the new rules the shape house he'll have to build probably won't meet the architectural guidelines. Mr. Stiver stated he bought his lot last August for \$395,000, asked if the Board was going to reimburse the taxpayers for some sort of damages for taking away their building rights and said he didn't feel the rules were being applied fairly. Judy Miller said she's a property owner but over time massive buildings now obstruct the water vistas of the Gulf and the bay, she was totally opposed to combining any single lot over 50' in width with one or more adjacent pieces of property regardless of their size, opined Gulf Boulevard and Beach Road will soon look like Miami, flooding will only get worse if more green space gets covered with concrete and thanked the Board for trying to protect their island. Albert Knoefler said he agreed with the steering committee and the new plan Manasota Key was proposing but he had to argue with some of the details that will make developing some of these lots almost impossible and he hopes there will be some refinements made to the set-backs and lot combination requirements. Don Pease, Gulf To Bay Cooperative, said they were the only remaining mobile home park on Manasota Key, their biggest concern was disaster recovery, there were currently 105 homes but under the new rules only 85 homes would be allowed and asked what happens to the other 20 home owners who would be displaced. Larry Jones said he bought his house last August, he agrees balance is needed, noted Ft. Myers Beach used to look like Manasota Key but look what happened because there was uncontrolled development, and asked the Board to please protect the people and not allow development to go unchecked. Henry Danielson said in 1997 he and his wife bought a condominium at Sandpiper Cove, they were full-time Florida residents, opined planning was the key to preserving Manasota Key, development keeps taking away from the residents' quality of life and asked the Board to please think about this when making their decision. **COMMISSIONER DeBOER**

MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. Mr. Perez said he was going to try to summarize some of the concerns raised by the citizens: the intent of the single-family (SF) district was if you have a parcel of land you can develop one house on that parcel but in multi-family (MF) you get a specific number of units based on the acreage, and staff was open to the input provided today regarding combination of lots and the determination of density; the Coastal Construction Line language on page 25 will be deleted; townhouses continue to be allowed in the CT district; for building height, in the CG district it's 2-stories or 43' and in the CT district it's 3-stories or 52'; dumpsters must follow the dumpster ordinance; mobile home park density in CT continues to be 50 units an acre; and the proposed overlay has very specific language in reducing density in RMF districts but there was not a proposed reduction of density in the CT district. **Chairman Devos** asked for clarification on the gentleman whose property was a little higher and would be hurt as a result. Mr. Perez explained building height would be measured from the water line, since the FEMA requirement was 17' from the water line to the first floor the gentleman was partly correct that if his ground was higher this would reduce the amount of height between his ground level and the first floor, and there were some areas on the island where the elevation was around 17' so those unique areas would have to be dealt with on a case-by-case basis. **Commissioner D'Aprile** asked how big a building could a person have on the three parcels referred to earlier. Mr. Perez said each 50' x 100' lot would have 10' set backs on each side allowing for a 30' wide building and if the three lots were combined there would be 30' buffers on each side for a total of 60' of buffers allowing for a 90' wide building. **Commissioner D'Aprile** asked if there was a change to requiring 50' from high tide to the building. Mr. Perez said there were no proposed changes. **Commissioner DeBoer** asked to be provided with the Planning and Zoning (P&Z) Board comments before the next meeting and said he would appreciate some staff time to go over those comments and review the comments by the committee on things removed from the ordinance. **Commissioner DeBoer** said using the beach down in Ft. Myers was a great comparison, there's a cost to do nothing and a cost to do something but the cost of degrading quality of life must be considered, the amount of green space to be set aside was a key consideration, he was ready to move forward with maybe some changes at the next

hearing and his only concern was they need some kind of exception if a lot was rendered unbuildable because you can't put a driveway along the property line but maybe they could make some provisions if it was a permeable driveway. **Chairman Devos** said she had the same concern, she also wanted some staff time and thanked Mr. Perez for his hard work and excellent presentation.

RECESS: 11:00 A.M. - 11:10 A.M.

Agenda Item 2 - Tern Bay Developer's Agreement (Proof of Publication was in Order.)

Thomas O'Kane, Public Works Director, explained the agreement provides for Tern Bay to donate right-of-way (ROW); fund the design, permitting and construction of two new southbound lanes on Burnt Store Road; and also provide some residual stormwater treatment along with some wetland acreage for future use when the County gets into the design for the Burnt Store Road widening project. Mr. O'Kane said the estimated value of this agreement was about \$5.65 million for 1.77 miles of Burnt Store Road. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant, said it had been a pleasure to work with staff on this agreement and requested approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL OF AGREEMENT #2005-005, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Chairman Devos thanked everyone who was involved with this project. **Commissioner DeBoer** suggested they talk again about the scheduling of four-laning this road versus the safety improvements and the possibility of allowing private concerns to do the work.

Agenda Item 3 - PA-04-03-09-LS (Legislative), District III (Proof of Publication was in Order.)

Barbara Jefferies, Planner II, explained this petition requests a large-scale plan amendment from Low Density Residential, Medium Density Residential, High Density Residential and Commercial Corridor to Public Lands and Facilities for five sites totaling 20.64+ acres - four Fire/EMS sites and one

wastewater treatment site. Ms. Jefferies said the Board had seen this project before when it went to the Department of Community Affairs (DCA) and it came back with a recommendation for approval. Ms. Jefferies reviewed the Future Land Use Map (FLUM), surrounding land uses, and stated both staff and the P&Z Board recommend approval. **THERE BEING ON ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2005-001 FOR PETITION PA-04-03-09-LS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item 4 - PA-03-11-37-LS (Legislative) (Proof of Publication was in Order.)

Michael Konefal, Community Development Director, stated this item was a request for adoption of a Comprehensive Plan (Comp Plan) text amendment and following transmittal DCA raised no objections. Mr. Konefal said he wanted to explain the importance of this text amendment and address some public comments that came in late last week. Mr. Konefal explained this would set up the potential for future mixed-use districts within the County with the allowance for commercial nodes and residential consistent with the 776 Corridor Plan but clarified it does not automatically set up these districts, and added that in accordance with Ordinance #2004-065 this would create a mixed-use for the U.S. 41 Overlay at the same time. Mr. Konefal addressed public comments, advised there was a developer who wishes to propose Target and Lowe's stores at the intersection of S.R. 776 and Gulf Stream Boulevard, the proposed commercial node would be at this same location so this development would be consistent with the County's future plans and added that the development will probably come before staff gets to doing the map amendments. Mr. Konefal said there were suggestions that staff significantly increase the floor area ratio and the coverage ratio on U.S. 41, staff wasn't proposing to go as significantly as Board directed - they are going to double the FAR ratio to allow apartments and such to go on second floors but with the lot coverage ratio they were only proposing to increase it from 50% to 60% instead of 100% because the result of the parking analysis showed if you fill up the entire lot there wasn't enough space on the frontage road to accommodate the parking. **Chairman Devos** thanked Mr. Konefal for following

up on the concerns she had and for the clarification he provided today. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2005-002 FOR PETITION PA-03-11-37-LS, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS. Commissioner DeBoer thanked staff and said it was good to see this moving forward.**

Agenda Item 5 - PA-04-05-16-LS (Legislative), District II (Proof of Publication was in Order.)

Jie Shao, Planner II, stated the applicant Gregory W. Eagle, Trustee, has requested this petition be continued. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant, said the plan was being revised in response to some of the comments by DCA and the revised plan would be brought at the next series of adoption hearings in summer along with a concurrent Planned Development (PD). Louis Whitehead, Assistant County Attorney, clarified this petition was continued at the P&Z Board hearing as well so that sets the stage for continuing this proceeding.

Agenda Item 6 - PA-04-05-19-LS (Legislative), District II (Proof of Publication was in Order.)

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) Ms. Shao said Florida Lakes, Inc. was requesting a large scale plan amendment from Agriculture to Commercial Center for a 15.58+ acre portion of a 55.21+ acre property with a companion rezoning from Agriculture Estates (AE) to Commercial Intensive (CI). Ms. Shao reviewed the FLUM designations, the surrounding land uses and stated the proposed Commercial Center FLUM was compatible with the general uses in the area specifically the industrial uses immediately to the west of the subject site across Taylor Road. Ms. Shao said both staff and the P&Z Board recommend approval and DCA had no objections. Attorney Waksler spoke on behalf of the applicant in support of staff recommendation. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ENACT**

ORDINANCE #2005-003 FOR PETITION PA-04-05-19-LS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

Agenda Item 7 - Z-04-10-45 (Quasi-Judicial), District II (Proof of Publication was in Order.)

(Chairman Devos polled the Board for Ex-Parte Disclosures. The Board acknowledged receiving written communication and prior knowledge as this issue had been before the Board at previous public hearings.) Ms. Shao stated Florida Lakes, Inc. was requesting a rezoning from AE to CI, this was the companion rezoning to the previous petition and the same comments apply to this petition. Attorney Waksler spoke on behalf of the applicant in support of this petition. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER CUMMINGS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS. COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2005-004 FOR PETITION Z-04-10-45, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item 8 - PA-04-05-20-LS (Legislative), District II (Proof of Publication was in Order.)

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) Ms. Shao explained Realmark Tuckers Grade, L.L.C. was requesting a large-scale plan amendment from Agriculture to Low Density Residential and Commercial Center with a companion rezoning from AE to PD, and the purpose of this petition was to allow for diversification of residential and commercial mixed-use development on the site located on the northeast corner of U.S. 41 and Tuckers Grade in the Punta Gorda area. Ms. Shao reviewed the FLUM designations, surrounding land uses and stated the site was suitable for commercial general development that could serve the proposed residential neighborhood as well as nearby neighborhoods. Ms. Shao said DCA's Objections, Recommendations and Comments (ORC) Report had an objection regarding a lack of supporting data and analysis demonstrating the ability of the County to provide water and wastewater facilities for this amendment, and staff revised the data and analysis to include projected facility use based on the 999 units of density proposed by the applicant. Ms. Shao advised DCA also had a comment concerning the adopted level of service for this stretch of U.S. 41, this has been addressed and

the applicant will be required to pay \$50,000 towards the transportation improvements in the vicinity of the development prior to the final DRC approval. Ms. Shao stated Community Development received the Department of Environmental Protection (DEP) report which indicates that this area has a high recharging rate to the aquifer, staff recommended the applicant consider a full range of plan strategy to minimize impacts to the water quality in the high rechargeable area and because this was a PD rezoning staff made conditions to justify this issue as shown in the revised handout. Ms. Shao summarized staff and the P&Z Board recommend approval. **Commissioner DeBoer** said it was wrong to hand out revised material at the meeting and he can't vote in favor of things he hasn't even read. Attorney Waksler asked that this be continued to this afternoon to allow **Commissioner DeBoer** time to read the documentation. **Chairman Devos** asked **Commissioner DeBoer** if the two hour lunch break would be enough time for his review. **Commissioner DeBoer** said yes. **Chairman Devos** said she also wanted time for review.

RECESS: 11:57 P.M. - 2:08 P.M.

(Assistant County Administrator Kelly Shoemaker replaced County Administrator Bruce D. Loucks for this portion of the meeting.)

Agenda Item 8 - PA-04-05-20-LS (Legislative), District II - Continued

Ms. Shao reiterated staff and the P&Z Board recommend approval of the plan amendment. Attorney Waksler spoke on behalf of the applicant, said this has a companion PD, this change will permit the upcoming PD which will allow for a multi-use development of the site - a combination of both commercial and residential uses, water and sewer will be brought to the site and a Transfer of Development Rights (TDR) has been submitted that would finalize the increase of density if the Board approved the rezoning. Mel Staudmyer spoke in support of the proposed development and said his only concern was that the commercial area might not be big enough. **COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2005-005 FOR PETITION PA-04-05-20-LS, SECONDED BY COMMISSIONER D'APRILE. Commissioner D'Aprile** asked if any of the conditions handed out earlier apply to this petition. Ms. Shao clarified the

conditions apply to the rezoning only which was next. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item 9 - Z-04-10-46-TDR (Quasi-Judicial), District II (Proof of Publication was in Order.)

Ms. Shao explained this was the companion rezoning for Realmark Truckers Grade, L.L.C., the requested rezoning was AE to PD and her comments from the previous plan amendment petition applied. Ms. Shao clarified this proposed PD rezoning would give the County assurance of the use of the property and conditions will be placed on development to make sure that the mixed development will benefit the surrounding neighborhood, meets the County's overall goals and also addresses the concerns from the state. Ms. Shao stated staff and the applicant agree to all the revised conditions except Item 'i' as detailed on page 1 of the revised handout and which staff does not recommended being deleted. Attorney Waksler spoke on behalf of the applicant, stated the applicant has every intention of developing the commercial area but objects to being told when to do the development because what drives commercial development was market forces and cited the Sandhill DRI which has been in existence for over 25 years but was just now reaching a point where all the commercial parcels have been sold and approaching buildout. Attorney Waksler referred to Greg Eagle's letter which says 6,000 to 8,000 households were required to support a typical grocery store in a commercial area, the proposed development was 900 households so they felt Item 'i' was unfair, requested the Board use the P&Z Board recommendation to delete this condition and stated they agree with all the other 32 conditions. **(Chairman Devos polled the Board for Ex-Parte Disclosures. There were none.)** **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Commissioner D'Aprile said he felt commercialization should go along with the building process to allow those businesses to have some residential growth to work with but agreed with Attorney Waksler that the balance of the commercial wasn't needed until the other homes were completed and asked what survey has been done to substantiate her statement. Attorney Waksler responded Mr. Eagle has brokered a number of commercial developments such as K-Mart, Target and Publix, due to his experience in finding the appropriate locations he knows the parameters for a site to be

successful, and the applicant won't be able to put up the desired commercial under the staff recommendation. **Commissioner D'Aprile** agreed but opined Publix wouldn't be interested in this 13 acre site. Attorney Waksler disagreed, pointed out the Publix stores at Peachland Promenades and Forest Nelson were both less than 13 acres so the proposed 13 acre site was appropriate and reiterated they need to let the market dictate commercial development. Will Stout, principal of Realmark, said he has a good success record regarding residential development, the commercial site was actually 13.92 acres, the site can't be supported even on 999 homes, there needs to be growth within the whole corridor to be successful, they need to continue building the residential as rapidly as possible in order to make the population base that spends the money in the commercial area and that's the reason they have disagreed with staff regarding Item "i" of staff's response. **Commissioner Cummings** asked if this lot was deep enough to accommodate a big box store. Attorney Waksler responded yes as it was in excess of 400'. **Commissioner Cummings** asked why staff was insistent on Item "i". Ms. Shao said there was only one entrance to that site and there was no access from U.S. 41. James Dossett, Development Review Manager, said he was responsible for this item, he was concerned regarding traffic and trip generation based on his past experience, and other commercial developments he's worked on in other localities have begun to tie in a percentage of commercial to residential development. **Commissioner Moore** agreed the market will drive itself over time, if commercial was done too soon it won't be successful but without some commercial people will build somewhere else and said he was comfortable letting the market forces drive the development. **Commissioner DeBoer** agreed they shouldn't try to determine when the market will be ready and said they need to move forward with this. **Chairman Devos** said she also agreed this should be market driven and she supported the applicant's position. **Commissioner Cummings** stated he still has a concern regarding the size of the commercial and whether it really serves the community but he has less concern as to whether this parcel will develop commercially because there were very few interstate interchanges that didn't develop and added he felt they need to find a way to create a tiered impact fee system. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ENACT**

ORDINANCE #2005-006 FOR PETITION Z-04-10-46-TDR WITH THE CONDITIONS PROVIDED EXCEPTING THE ONE CONDITION (i) REQUIRING COMMERCIAL DEVELOPMENT AT A PREDETERMINED THRESHOLD, SECONDED BY COMMISSIONER MOORE. CALL ON THE MOTION: CHAIRMAN DEVOS AND COMMISSIONS CUMMINGS, DeBOER AND MOORE VOTED "YES" AND COMMISSIONER D'APRILE VOTED "NO." MOTION CARRIED: (4:1). (County Administrator Bruce D. Loucks replaced Assistant County Administrator Kelly Shoemaker for the remainder of the meeting.)

Agenda Item 10 - PA-04-05-25-LS (Legislative) (Proof of Publication was in Order.)

Jorge Perez, Planner III, explained this was another text amendment within the Charlotte Harbor CRA; staff received no objections, recommendations or comments from DCA; the language being deleted dealt with the fact that there was to be no multi-family residential development south of Bayshore Road along Charlotte Harbor; this was free-standing language that was in the FLUM of the Comp Plan to prevent overdevelopment of the waterfront in Charlotte Harbor with high-rises; since that language was incorporated into the Comp Plan, the County was close to finishing the land acquisition for the Bayshore Linear Park; there were some areas that were still privately owned; and the proposed language deletions would allow the few remaining parcels in private ownership to develop multi-family residential densities. Mr. Perez said staff, the P&Z Board and the Charlotte Harbor Community Redevelopment Agency Advisory Committee (CRAAC) all recommend approval of this amendment. **Commissioner DeBoer** asked if the land being discussed was already entitled to multi-family. Mr. Perez responded some areas were zoned CT, and both the zoning and the FLUM give the properties multi-family densities but the issue was the language of the Comp Plan. **Commissioner DeBoer** asked if there was interest in that area for multi-family. Mr. Perez said most of the interest in that area was for multi-family development. **Commissioner DeBoer** asked if a transference of development units would be required. Mr. Perez said no. (**Commissioner Moore was not present for this portion of the meeting.**) Dick Loftus, CRAAC Chairman, said they supported the language change and this would put them in compliance with their original plan back in 1994/1995. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0) (Commissioner Moore was present for the remainder of the**

meeting.) **COMMISSIONER D'APRILE MOVED FOR APPROVAL TO ENACT ORDINANCE #2005-007 FOR PETITION PA-04-05-25-LS, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.**

Agenda Item 11 - PA-04-05-27-LS (Legislative), Districts I, II and III (Proof of Publication was in Order.)

Inga Williams, Planner III, explained this was an amendment covering state owned land being changed to Preservation and Resource Conservation; the properties were located in South, West and East County Planning Districts; this plan amendment will place the correct designation of Resource Conservation for the properties adjacent to the Babcock/Webb Wildlife Preserve and Preservation for all other parcels; and this FLUM amendment was supported by many areas of the Comp Plan. Ms. Williams said there were no objections, recommendations or comments from DCA, and staff and the P&Z Board recommend approval. **Commissioner Cummings** said he just wanted to disclose his brother owns a parcel at the corner of Sams Way and CR 17. **Commissioner DeBoer** summarized the State of Florida goes out and buys property all over Charlotte County and then waits for the County to change it's land use maps. Ms. Williams agreed. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2005-008 FOR PETITION PA-04-05-27-LS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item 12 - PA-04-06-32-LS (Legislative), District IV (Proof of Publication was in Order.)

Thomas A. Cookingham, Planning Services Manager, explained this petition requests a FLUM amendment to change the current mix of Commercial, Residential and Public Facilities to the new land use classification Murdock Village Mixed-Use Redevelopment District (MVMURD) and a Future Land Use Element (FLUE) amendment to amend Goal 2 by adding Objective 2.10 which creates the Murdock Village Community Redevelopment Area (MVCRA) and policies 2.10.1 through 2.10.7 and Policy 6.1.4 through 6.1.7. Mr. Cookingham said staff recommends the following change to line 7 on page 14 of the proposed ordinance: "...approximately 20 acres for an ~~elementary school~~ educational facility if deemed appropriate..." Mr. Cookingham said DCA raised no objections,

and both staff and the P&Z Board recommend approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2005-009 AS AMENDED ON PAGE 7 FOR PETITION PA-04-06-32-LS, SECONDED BY COMMISSIONER DeBOER. Commissioner Cummings** recalled he'd voted against this previously because he didn't think the plan was good enough, said this plan came forward so quickly he felt he hadn't been given enough time for review, and he's still not happy about the short time frame but he'll support it in the hope that in the future improvements will be made. **Chairman Devos** said she hopes for the same. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item 13 - SV-04-09-17 (Legislative), District II (Proof of Publication was in Order.)

James Dossett, Development Review Manager, explained Earl and Sharon Goodwyne have requested a street vacation of a 40 foot ROW at Sixth Street between Lot 1 of Block 69 and Lot 4 of Block 73 in North Cleveland, the site was located just off Bloxham Avenue and it contains 0.2+ acres. Mr. Dossett reported during the P&Z Board meeting there was significant discussion related to the use of the adjacent property owned by the applicant and the possibility of existing zoning violations, since that meeting the zoning violations have been corrected, staff recommended approval and the P&Z Board recommended denial. Attorney Waksler spoke on behalf of the applicant, distributed a three page handout which she reviewed, noted the other half of Sixth Street had been previously vacated, the portion at issue today was between two properties owned by the applicant and it serves no purpose other than to the applicant. Attorney Waksler said the adjoining property owner Mr. Mitchell initiated the vacation of the other portion of Sixth Street but has now voiced opposition to this street vacation request and the applicants were requesting the same consideration given to Mr. Mitchell. Attorney Kevin Russell, spoke on behalf of Mr. Mitchell, stated according to County Zoning Official Tom Smith the current use of the property required a special exception which was what the zoning violations were actually about, commented on the leaking of sludge onto the Goodwyne's commercial property leased by American Water Services who has a poor environmental record and said there was also an odor situation when the sludge was left

overnight. Attorney Russell displayed photographs of the sludge and sludge hauling vehicles, said this was a detriment to his client and opined to approve the vacation without proper compliance to the law was not in the public interest. Joan Smith said she and her husband own the property directly in front of where the trucks were, the run-off onto their property was very bad as was the smell and they oppose this vacation. James Smith said the trucks weren't so bad but the smell was just terrible and they just can't stand it. George Mitchell said he has no feud with the applicant, his only problem was the sludge which he just wants fixed, when the sludge material was tested by DEP it was beyond any limits of what should be on the street, and the run-off was caused by rain washing out the sludge in the open trucks. Sharon Goodwyne said she owned the property in question, she was here today only to vacate the street not for any zoning issues which will come later, they will put up some type of barrier so the trucks won't park on the vacated street and reiterated she was only here today for the vacation of the street. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS.** Commissioner D'Aprile said he knows the Board was here today to deal with the street vacation but the health issues need to be looked into. **COMMISSIONER D'APRILE MOVED APPROVAL TO ADOPT RESOLUTION #2005-015 FOR PETITION SV-04-09-17 WITH THE CONDITION TO RESEARCH THE HEALTH PROBLEMS, SECONDED BY COMMISSIONER CUMMINGS.** Louis Whitehead, Assistant County Attorney, said the condition was not appropriate. **COMMISSIONER D'APRILE AMENDED HIS MOTION TO RETRACT THE CONDITION, COMMISSIONER CUMMINGS AMENDED HIS SECOND.** Chairman Devos asked if Commissioner D'Aprile wished to amend his motion to include the language suggested by Attorney Waksler on page 3 of her handout. Commissioner D'Aprile said no. Commissioner Cummings asked if the current usage of the trucks would be allowed if a special exception was approved. Mr. Dossett said according to the Zoning Office prior to this meeting a special exception would not be required and the applicant could store the trucks there as is but he just got an indication from Mr. Cookingham that there may be a change on that. Mr. Cookingham clarified this use could be allowed through special exception, it's not a principle permitted use as stated in the CI zoning but because it may be a reasonable implication to be used and they can only do that through special exception, and given the fact of the intensity of the use, staff would recommend that the special

exception for this property be applied for. **Commissioner Cummings** said he felt there were two separate problems - the street vacation which he felt was a pretty straightforward issue since the other side had already been vacated and the overriding problem in the Cleveland area which would be well served by a Community Neighborhood Plan and possibly some kind of historic district designation. **Commissioner Cummings** said he supported the street vacation but he expects staff to address the problem issues because the neighborhood deserves better than it's getting. **Chairman Devos** said she supports the vacation but she will oppose the motion because she wants to give assurance to the neighboring property that the Board will hold the owner to her statement of not encroaching on the property and without that assurance she will not support the motion. **Commissioner Moore** agreed there were two problems and said maybe they should table this until the problems were resolved. **Commissioner DeBoer** said he agreed with **Commissioner Cummings** about separating the issues, the zoning issue should be discussed during the proper quasi-judicial proceeding, he supported the vacation but he also understood why the Commissioner didn't want the addendum made a part of the motion, this vacation won't stop how the land was being used right now, they've all expressed the fact that they have a problem with that but that's for staff to take up, and reiterated he felt the street vacation was very straight up and simple. **CALL ON THE MOTION: COMMISSIONERS CUMMINGS, D'APRILE, DeBOER AND MOORE VOTED "YES" AND CHAIRMAN DEVOS VOTED "NO." MOTION CARRIED: (4:1).**

RECESS: 3:50 P.M. - 4:01 P.M.

Agenda Item 14 - SV-04-09-18 (Legislative), District II (Proof of Publication was in Order.)

Mr. Dossett explained Curtis and Sheri Fullom have requested a vacation of a portion of Cleveland Avenue lying between Riverside Drive formerly First Street and the platted Front Street which was vacationed in 1925, the portion to be vacated was between Lots 1 and 4 of Block 1 North and Lots 2 and 3 of Block 1 South, all lots were owned by the applicant, and the site was 417.12 feet in length and 40 feet wide for a total of 0.4+ acres. Mr. Dossett said staff recommended approval of this to the P&Z Board with one condition that the existing 4" water main within the ROW must either be removed or an appropriate

easement dedicated, and the County Surveyor made the following comment which was read into the record: "The original plat depicts a Wharf which appears to be an extension of Cleveland Avenue. Since river traffic was a very common manner of freight transport (at that time) it would be inconceivable that the Board of County Commissioners in August, 1925, would vacate that portion of Front Street which would also be common with Cleveland Avenue the only direct access to a public wharf. More recently the Board of County Commissioners has stated that any street that has direct access to any navigable water body shall not be vacated." Mr. Dossett reported there has been a lot of discussion over this, stated that since he wrote this recommendation he has learned that in 1925 the then Board vacated Front Street, 31 years later in 1956 a different Board vacated without mention of Front Street some other side streets coming down to the water, in 1980 portions of Front Street were vacated with skips whenever they got to the intersecting streets, and most recently in April, 2003 the Board vacated a portion of Fourth Avenue referencing that Front Street had already been vacated. Mr. Dossett said, "What it gets down to is that staff's position that if the Board's action in 1925 was valid, that Front Street is vacated, and there is no access from here to here because this in fact belongs to the applicants and it's on their tax account." Gerri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicants, stated the applicants own all the property on both sides of the portion of Cleveland Avenue they are seeking to have vacated, the key issue was whether Cleveland Avenue provides access to the river, in 1925 the Board granted a petition to vacate Front Street, the minutes reflect the hearing was duly advertised and that no one objected to the vacation of Front Street, and read the following from the minutes of August 5, 1925: "The road marked on the plat of Cleveland, as Front Street, and the road marked on said plat as Fifth Avenue in North Cleveland, between First Street and the Waters of the Bay of Charlotte Harbor, be and the same are hereby vacated." Attorney Waksler said by that action 80 years ago of vacating Front Street access to Charlotte Harbor by Cleveland Avenue was cut off and clarified the wharf was privately not publicly owned. Attorney Waksler stated this vacation will unify the Fullom's property, increase their safety, referred to the letter from the Sheriff's Office regarding traffic safety concerns and said since the Fullom's have two young children they want to provide increased

security and safety. Attorney Waksler summarized they concur with the staff recommendation for approval with one condition. The following citizens spoke in opposition to the street vacation: U.S. Cleveland, Greg Martin, Jean Summerville, Jane Gingerich, Mike Cleveland, Scott Landry, Philip Henderson, Mark Phillips, Charlotte Pattee, George Mitchell, Anna Henderson, and Frank Randolph. Curtis Fullom said he was one of the applicants along with his wife, displayed a plat of Cleveland showing certain areas were not bounded on the river side by Front Street like Misty, clarified Front Street was never platted in front of Cleveland because there was an inlet creek there and there were four or five such inlet creeks within the original Cleveland plat. **COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS.** **Commissioner Cummings** said he had talked to parties on both sides of this issue, historical issues were new to him but could establish public access rights, he didn't want to limit options for the neighborhood, his preference was to error on the side of caution by denying the vacation to preserve the public's access to the water but the evidence rules lean him to side with the applicants, he still has a lot of doubts and at this time he will vote against granting the vacation. **Commissioner Moore** referred to the old plat map, said it appears a number of the cross street intersections at Front Street were not vacated and asked if Cleveland goes to the water or not. Louis Whitehead, Assistant County Attorney, said, "We're looking at a lot of confusing factual issues. At first, all of Front Street was vacated and if you look at the literal language, if you take the literal language, that means that Cleveland Street would end at the edge of Front Street because Front Street is no longer there. But subsequent to that, the County tried to correct some mistakes, I guess, that they felt they had made, and they did what appeared to be corrective resolutions and I don't think, as a title examiner, I would not consider those to be adequate. What I would do is get quit claim deeds from all the land owners around Front Street to gather title to Front Street that was vacated, all of Front Street, and plus a deed from the trustees of the Internal Trust Fund for the State for the portion below mean high water line. Now what we see here is just a map that has developed over time. There is a resolution that purports to vacate Front Street less various and sundry intersections. So in effect we have conflict of fact and conflicts of law, and Commissioner Cummings really said it succinctly and I have to

take issue with the applicant, that the key issue is not whether Front Street provides access to the river, the issue is whether the Board can articulate a reasonable basis for the vacation of Cleveland Street, and that can be handled irrespective of the Front Street issues whether it be a historical reason or possible access because the only way I can view this now and Ms. Waksler was right, when I looked at the language in the vacation, I had to agree that it was literally... it would have vacated all of Front Street but since then we've seen so many documents that conflict where the County has treated Front Street as not being vacated in terms of subsequent vacations and we've even seen a remedial vacation. So we've got conflicts... there's conflicts in terms of actions and that will bring in various conflicts in terms of law, and I think the result... I can only look at this from the standpoint of a hypothetical civil action, and I think the result would depend upon the creativity of the lawyer because there's so many legal maximums and... maxims that apply such as the document being construed against a draft or if a document is subject to a reasonable conclusion or an unreasonable conclusion, the reasonable conclusion would be taken. But that's contract law, does that even apply. Do we go to the law of statutory construction. My conclusion is, I don't think we're capable of weighing the evidence and I really don't have confidence the circuit court could because I went in with slam-dunks and who knows how the circuit court judge may feel in terms of access to the waterfront. So I really think that we should rest our decision, hang our hats, on a reasonable basis for our action here today." **Commissioner DeBoer** said since the 1925 vacation along the waterfront the property has changed hands and asked if anyone had checked the deeds to see if those had been recorded as ownership for the land. Attorney Whitehead said Attorney Waksler did check and the deeds didn't reflect that a part of Front Street attached to the riverfront lots. Attorney Waksler clarified she looked at the chain of title from 1925 when the action was taken which was reflected in the minutes but was not recorded as a resolution in the public records, the deeds were silent not reflecting the additional land but they do reflect the additional land along Front Street subsequent to the time when recording was required, and added the Fullom's deed does reflect vacated Front Street. **Commissioner D'Aprile** said if the County had been diligent in their responsibility for this road to make sure it was passable this issue wouldn't be on their desks today, it appears this street was never maintained nor was it ever used

by what he's seen personally, so this road was never used for access to the waterway as these trees are there but of course he doesn't know what happened 40 years ago. **Commissioner D'Aprile** referred to Ms. Pattee's comments on people paying taxes for roads so why give it to someone who owns property on either side of this parcel, and said he wanted to know if people in this vicinity were taxed for that road. **Commissioner D'Aprile** said no one appears to have an answer so obviously it hasn't been taxed so that's not an issue, the other issue was how many streets were there right now that were on this particular riverside drive that really have access to the water. The response from the audience was eight (8). **Commissioner D'Aprile** stated no one really knows who owns Front Street, this matter was not clear cut, and if they keep this street open then they should maintain it and do it now. **Commissioner D'Aprile** said he wants more discussion and he can't make a decision today. **Chairman Devos** asked if Front Street crosses any of those eight roads. Mr. Dossett said he didn't know. **Chairman Devos** said access was a very important question, she doesn't want to deny public access but if people shouldn't be accessing the harbor at this area due to a previous vacation she could support this petition and added she felt people need to know where the true public access exists. **Commissioner DeBoer** opined if the Fullom's have deed to the property, then they have a right to put a fence across it. **Chairman Devos** said if that's the case then she would clearly have to side with the applicant. **Commissioner Cummings** asked if the deeds show a survey. Attorney Waksler said no, there was only written description. **Commissioner Cummings** said he doesn't know if there's an argument of estoppel regarding the intersection on Front Street to get to the water but for him he would still lean to error on the side of caution which was not to reduce our potential. Attorney Whitehead said regarding estoppel or a prescriptive easement of sorts, it gets very cloudy, he and Mr. Dossett had researched this matter, in subsequent vacations all of these areas of Front Street were vacated and these later ones excepted out the intersections. **Commissioner Moore** said if the land on the water side which may have been called Front Street at one point was vacated and then it's ownership reverted to the abutting lot holder, then what happened to the Cleveland intersection since there was no landholder to give it to. Attorney Whitehead responded he didn't know. **Commissioner Moore** asked if the Board needed to make a decision today. **Chairman Devos** said she supports continuing this item. Mr. Dossett said he had just been

advised the applicant was agreeable to a continuance. **Commissioner D'Aprile** asked Attorney Waksler to clarify the tax issue. Attorney Waksler gave the Board a handout from the GIS system, explained when you put in the property the system highlights that property, what came up was a "horseshoe" that included that area of vacated Front Street, so they can see the two lots the Fullom's own that extend down along vacant Front Street and then wrap around clearly indicate that Cleveland Avenue doesn't go to the water; and in the interest of full disclosure, mysteriously after the P&Z Board hearing, that has now been changed so when you pull it up on GIS it no longer shows the full "horseshoe" anymore. Attorney Waksler added that the County in Resolution 81-35 accepted certain streets and portions of streets for maintenance and this was the map of the streets that were accepted and when you look at Cleveland Avenue it was not accepted down to the water so the County has never accepted the full extent of Cleveland Avenue. **Chairman Devos** said it appears there are a number of Board questions staff is unable to answer and she would like to table this if someone would make a motion. **COMMISSIONER D'APRILE MOVED TO TABLE AGENDA ITEM 14 FOR PETITION #SV-04-09-18 UNTIL THE BOARD RECEIVES THE INFORMATION PERTINENT TO THIS MATTER, SECONDED BY COMMISSIONER DeBOER.** **Commissioner DeBoer** said, "I really would like to go back to the deed of the land and the actual surveys that have to be filed when you have a transference of property. If in fact these people bought that property and it shows on the deed that they purchased the property that's in dispute, we need to know that. If it was clear to me that that ROW had never been vacated and that it truly had legal public access to the water, it wouldn't have taken this long, not for anybody up here, and I think that's a key to our deciding what to do. If in fact it's in private ownership and can be shown, then I did understand your question Commissioner and I guess what I was saying is that if I were the Fullom's that owned that land and you wanted to buy just that piece from me, it would be more expensive than the whole ROW and intersection together. That was my point." **Chairman Devos** said when this comes back she wants to know the terms of each vacation. **Commissioner Cummings** asked if there was another entity they could seek a legal opinion from prior to bringing this back. Attorney Whitehead responded not really. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item 15 - PV-04-10-21 (Legislative), District III (Proof of Publication was in Order.)

Mr. Dossett explained Mark and Cheryl Clark have requested to vacate a portion of the Grove City Shores, Unit 3 Addition plat located in 8, Township 41 South, Range 20 East. Mr. Dossett stated the portion to be vacated was between Georgia and Arkansas Avenues, west of Placida Road; and it consisted of Lots 53, 54, 55, 56 and 57 together with a Public Parking Area lying adjacent to said lots. Mr. Dossett advised the Public Parking Area located between the lots being requested to vacate and Placida Road was dedicated "to the use of the general public forever" according to the recording of the Plat on November 30, 1959. Mr. Dossett advised all utilities have been notified and only Englewood Water District (EWD) requires a 15 foot easement for its facilities within the area. Mr. Dossett said staff recommends approval with the following conditions contained in the proposed resolution:

1. Any easements taken for the 775/Pine Street Improvement Project need to be reserved.
2. The Parking Area must remain for public use for parking only.
3. Provide a 15 foot easement for Englewood Water District facilities.

Mr. Dossett advised the P&Z Board recommends approval with one exception: Provide a 15 foot easement for EWD. Robert H. Berntsson, Esq. with the law firm of McKinley, Ittersagen, Gunderson & Berntsson, P.A., spoke on behalf of applicant, explained the purpose of the vacation was to delete the Public Parking Area, a condition that would grant the vacation but require the Public Parking Area to remain for public parking use would be unacceptable and if the Board intends to leave that condition in they would rather this be denied. Attorney Berntsson said condition #1 was acceptable, commented on adjacent properties with public parking areas, submitted his handout, and commented on Grove City's plans to use the Public Parking Area as a park area but said there was no legal right for the public or the County to do that with the dedication as it is in place on the plat. **Commissioner Cummings** asked if he understood correctly that the deed for property down the street transferred showing all the property even though the public

parking area was never vacated. Attorney Berntsson responded that was correct. Erv Harris, Grove City Civic Association President, said the Grove City Planning Committee has worked diligently to develop a comprehensive plan to beautify and improve their city, part of that plan involves the property fronting on CR 775 between Arkansas and Georgia Avenues, 45 years ago the County Commissioners set aside this property as parking forever, their plan was provided to the Board last fall, distributed his handout and said just because the property was parking doesn't mean the County should give away the land for somebody to put up apartments or whatever. Audrey Shinske, Grove City Planning Committee Chairman, asked the Board not to give away the Public Parking Area before they have a chance to fulfill their vision and submitted a letter from the owner of Angelo's Pizza requesting the property remain a Public Parking Area. Nancy Christensen, Grove City Civic Association Board Member and Grove City Planning Committee Member, said they're working very hard to fit in with the County's overall plan and requested the land in question be left as parking forever. Steve Schep said he lived on Arkansas Avenue, distributed a handout, said there's been a real effort to realizing the long-term planning vision, this was a low-key residential area and he fears a large development that would not fit the character of the area. Mr. Schep stated there were two other petitions scheduled to come before the Board - today's issue to get access to the parking area as though it were their own, then consolidate the lots and make them without deed restrictions, and last to change the zoning. Mr. Schep referred to the P&Z Board comments, voiced support for the Civic Association's plans, and opined there were a lot of people in opposition to this petition due to issues of property rights and what's best for the entire area. Ron Keller said he lives on Arkansas Avenue, he's spoken to the 44 homeowners on Georgia and Arkansas Avenues, 78% of the available residents as some still weren't down yet support the Civic Association's plan, the Lemon Bay canal was very sensitive with a lot of Manatees, a large project with potential run-off could be very damaging and they hoped to be able to keep that land making it the focal point of Grove City. Cory "Nitiger" said he and his wife live in the first house on Arkansas Avenue, he was deeded half of Sixth Street as well as the lot in question, there's really no access to the canal as it was completely engulfed by Mangroves, agreed with Mr. Keller about the sensitivity of the canal, said they'd heard

rumors of a boatel, distributed photographs and reiterated his opposition to this petition. Linda Keller said they really don't understand why a piece of property that was supposed to stay in the County was just going to be given away, they were afraid of what's going to be built there such as the boatel which would cause problems due to run-off and fish cleaning as well as create safety concerns, and asked the Board to please think of the effect to Grove City residents. **COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.** (County Administrator Bruce D. Loucks was not present for this portion of the meeting.) **Commissioner Cummings** said he was willing to support staff report with the parking lot remaining for public use but his understanding was the applicants' representative would rather it be denied than approved with the conditions. Attorney Berntsson responded he would rather the Board deny the petition than put the condition recommended by staff. **COMMISSIONER CUMMINGS MOVED FOR DENIAL OF PETITION #PV-04-10-21, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS.**

Agenda Item 16 - PP-04-10-22 (Quasi Judicial), District I (Proof of Publication was in Order.)

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) (Chairman Devos polled the Board for Ex-parte Disclosures. There were none.) Mr. Dossett explained Sandhill Investment, LLC has requested a Preliminary Plat for Sandhill Commons located off Kings Highway, this was a replat of a portion of a previous plat named Sandhill Crossings, the applicant was proposing five Commercial General (CG) lots on 6.73 acres within the Sandhill DRI, the zoning was CG-Sandhill DRI, the minimum lot size was 1.1 acres and it meets the requirements of the DRI. Mr. Dossett stated water and sewer services will be provided by CCU and all roads will be built to County standards and remain private. Mr. Dossett said staff and the P&Z Board recommend approval with the following four conditions:

1. Provide surveyor notes on plat indicating who maintains control over Access Easements.
2. Contact County Surveyor regarding complete information to be provided on the plat.

3. Provide the necessary Environmental Resource Permits (ERP) from Southwest Florida Water Management District (SWFWMD) demonstrating that all impacts are authorized by State prior to final development approval or issuance of any County permits or land improvement activities.
4. The upland areas must be surveyed for gopher tortoise burrows. If gopher tortoise burrows are found appropriate Florida Wildlife Conservation Commission (FWCC) permits must be obtained prior to final development approval or issuance of any County permits or land improvement activities.

(County Administrator Bruce D. Loucks was present for the remainder of the meeting.) Bill McBride, Charlotte Engineering Sports Group III, Inc., spoke on behalf of the applicant, said they already have all the permits, they were ready to go, land development was supposed to be issuing the construction plan approval if this was approved today, they will then be going forward with the plat and added they will be building it not bonding it. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL OF PRELIMINARY PLAT #PP-04-10-22 FOR SANDHILL COMMONS WITH FOUR CONDITIONS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

MEETING ADJOURNED: 6:11 P.M.

Signature on file in Commission Minutes

Sara Devos
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

/ksm