

LAND USE PUBLIC HEARINGS

BOARD OF COUNTY COMMISSIONERS

APRIL 4, 2006

Public Hearings on Land Use petitions were held before the Board of County Commissioners at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Thomas G. Moore and Commissioners Adam Cummings, Thomas C. D'Aprile, and Matthew D. DeBoer. Also in attendance were Assistant County Administrator Kelly Shoemaker, Assistant County Attorney Richard A. Browne, Executive Assistant to the Board Judy Hunter, and Minutes Supervisor Diane J. Nice. The meeting was called to order at **10:00 A.M.** (Commissioner Devos was not present for the first portion of the public hearings and Chief Deputy Tommy Q. White was not present for the public hearings.)

I. CONSENT AGENDA

COMMISSIONER DeBOER MOVED APPROVAL TO SET A PUBLIC HEARING FOR APRIL 18, 2006, AT 10:00 A.M., OR AS SOON THEREAFTER AS MAY BE HEARD, TO REVIEW A PETITION TO ESTABLISH THE WATERFORD ESTATES COMMUNITY DEVELOPMENT DISTRICT (CDD) PURSUANT TO SECTION 190.005 FLORIDA STATUTES, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).

II. LAND USE AMENDMENTS (Proof of Publication was in order.)

Jan Rogers, Planner III, announced anyone wishing to receive Department of Community Affairs' (DCA) responses should sign in on the sheet in the back of the room and citizens providing public input should sign in on the sheet at the podium.

Agenda Item 1, PA-05-05-28-LS (Legislative) District I

Ms. Rogers presented the petition filed by American Services of SW FL Inc. for a large-scale plan amendment from Low Density Residential (LDR) to Commercial Center on property located at 2351 Duncan Road (U.S. 17) in the Punta Gorda area zoned Agriculture Estates (AE) and Residential Single Family-3.5 (RSF-3.5); the purpose of the plan amendment is to provide a

Neighborhood Commercial Center in advance of residential development in the area; the site is located within the Suburban Area of the Urban Service Area and adjacent property is vacant; the proposed Commercial Corridor Future Land Use Map (FLUM) amendment is consistent with the Comprehensive Plan; the parcels are located on a major arterial; commercial development will be required to comply with buffering standards to minimize potential impacts to future residential development; the petition was heard in August 2005, transmitted to DCA, and staff received an Objections, Recommendations, and Comments (ORC) Report; the major objection related to water and sewer concurrency; staff met with the applicant's agent on March 1, 2006; according to the agent, applicant intends to serve the proposed project with water and wastewater through an interconnect with the City of Punta Gorda but no information has been received that acknowledges any type of commitment from the utility provider including an executed utility agreement which is required by DCA; if potable water and sanitary sewer service is unresolved on the date of the adoption hearing, the project may be found not in compliance by DCA; the Planning & Zoning (P&Z) Board recommended approval on March 20, 2006; and originally staff recommended approval but changed the recommendation to denial due to applicant's inability to address the ORC Report. Geri L. Waksler, of Moore & Waksler, P.L., appeared on behalf of the applicant; stated a rezoning petition to Commercial General on this parcel will follow at a later date; reviewed adjacent property uses and zoning designations including the Wal-Mart Distribution Center on US 17; residential growth will require commercial services; there are very few commercially designated parcels along US 17 that support a planned commercial center; during transmittal hearings, staff determined the proposal area was suitable for a commercial center, staff recommended approval, the P&Z Board recommended approval, and this Board approved the transmittal; nothing has changed except DCA's recommendation that the applicant demonstrate that sufficient potable water and wastewater capacity is available to serve the site and the Capital Improvements Program (CIP) be updated to identify funding for a commitment to these needed improvements or execute a developer's agreement; DCA's comments are out of line because this is a FLUM amendment not a Development Review Committee (DRC) review for plan approval and building permit; Policy 10.1.6 of the Comprehensive Plan states that "Charlotte County will meet the

following standards for potable water and sanitary sewer concurrency requirements: (a) development order or building permits will be issued subject to the condition that at the time of the issuance of the certificate of occupancy, the necessary facilities and services are in place and available to serve new developments or (b) at the time of development order or building permits are issued, the necessary facilities and services are guaranteed in an enforceable development agreement or an agreement or development order pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes, to be in place and available to serve new development at the time of issuance of a certificate of occupancy or its functional equivalent." Attorney Waksler expressed understanding that DCA's comments were based on Senate Bill (SB) 360, the change to growth management laws adopted in the Legislature's last session; SB 360, now Chapter 2005-290, Laws of Florida, and read 163.3180(2)(a): "Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve a new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent." Attorney Waksler pointed out DCA does not have sufficient basis to find the transmittal in noncompliance because there are not water and sewer lines available to serve the site at the time of the land use change when the Comprehensive Plan and the Laws of Florida indicate such services and facilities are not necessary until issuance of a certificate of occupancy; there are no plans to extend water and sewer to this area on US 17; portions of the US 41 business district do not have sewer lines; most water and sewer lines expansions have occurred as a result of private developers designing, permitting, and constructing extensions; options for extension of water and sewer lines to this site involve a new utility that recently received a franchise from the Public Service Commission (PSC) for a certificated area north of the site so a petition might be filed to extend the certificated area to include this site or the property owner could extend water and sewer lines north along US 17 from the City of Punta Gorda's facilities; she has spoken with the City's Utility Director Steve Adams and he has confirmed that is a possibility, it will require plans and review by the City Council and Utility Department as well as Charlotte County Utilities (CCU) because

the lines would be owned by CCU under a bulk service agreement from the City of Punta Gorda; her client understands that any commercial development on the site will require water and sewer services; now is the time to put a commercial land use in place prior to residential development; and requested approval of the amendment. **Commissioner D'Aprile** requested verification that staff's recommendation of denial is based on the lack of water and sewer services. Ms. Rogers recalled staff's original recommendation was approval and it was changed to denial based upon DCA's ORC Report. **Commissioner D'Aprile** stated, according to Attorney Waksler, water and sewer does not need to be available on site until later and there is no reason to deny the request. **COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).** **Commissioner DeBoer** pointed out the remainder of 163.3180(2)(a) indicates "Prior to approval of a building permit or its functional equivalent, . . ." in defense of staff's changed recommendation and DCA's interpretation. **Commissioner DeBoer** expressed the belief the developer is going out on a limb in light of previous Board's actions on development and suggested a contract for this infrastructure including financing might be required by the Board at the time of preliminary plat approval. **Commissioner DeBoer** indicated support for approval subject to the developer's understanding of their position and the need for infrastructure agreements at the time of preliminary plat approval. **Commissioner Cummings** stated if the Board proceeds contrary to DCA's ORC Report and DCA continues to object, it will be up to the developer to defend it. **Commissioner DeBoer** agreed and stated it should always be the developer's risk. **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-027 AND PETITION PA-05-05-28-LS FILED BY AMERICAN SERVICES OF SW FL INC. BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 27, 2005 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** **Commissioner Cummings** recalled the Board's approval of the transmittal was based on the proposed development providing sufficient commercial for residential and approval of this petition is justification for denial of like applications in the area. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 2, PA-05-05-31-LS (Legislative) District I

Ms. Rogers presented the petition filed by Charlotte Harbor Land Holdings, Inc. for a large scale plan amendment from Rural Estate Residential (RER) to LDR on property located at 1401 Duncan Road (US 17) in the Punta Gorda area across from agricultural land outside of the Urban Service Area; the zoning designation is AE; adjacent lands are subdivided into .5 acre to 5+ acre parcels; some are developed but the majority remains undeveloped; the proposed LDR designation would allow an increase in density from the existing allowed one dwelling unit per acre up to five units per acre within the Suburban Area of the Urban Service Area; the proposed increase in density is more urban in nature and incompatible with existing residential development and agricultural uses in the area; as the site is designated, the property owner is limited to developing one unit per acre for a total of 73 single family residential units; under the existing RER, the applicant, through a rezoning, could request a maximum density of two units per acre for 146 single family residential units which would require a transfer of density of 73 units; under the proposed LDR, the property owner would still be limited by the existing zoning designation to a total of 73 units but could request a density of up to five units per acre through the Planned Development (PD) and Transfer of Density Units (TDUs) process for a total of 368 single family dwelling units; DCA, in its ORC Report, set out concerns regarding water and sewer concurrency and school capacity; staff met with the agent for the applicant on March 1, 2006 to discuss the issues; a private utility has expanded its certificated area to include this site for potable water and sanitary sewer services but the applicant must construct necessary infrastructure; correspondence from the Charlotte County Public Schools was faxed to staff on March 13, 2006 that indicates existing capacity is sufficient to accommodate the projected student population; on March 20, 2006, P&Z Board recommended approval; and even though staff considers the applicant as having resolved DCA concerns, the recommendation is for denial because there is an adequate inventory of commercial to meet residential needs in the area. Ms. Rogers pointed out the large scale plan amendments being heard today are the first to come back to the Board subsequent to the adoption of SB 360; staff is uncertain as to how to implement the SB provisions; expressed the belief that DCA objections are relative but staff's

objection that this relates to the Urban Service Area, suburban in nature, and the existence of an adequate commercial inventory is sufficient to recommend denial. **Commissioner Cummings** questioned the cattle dip in the middle of the property. Ms. Rogers explained it is an excavation area. Robert H. Berntsson, of the McKinley law firm, appeared on behalf of the applicant; explained the Urban Service line is US 17 and property to the west is in the Urban Service Area whereas property to the east is outside of the Urban Service Area; the Board recommended transmittal in August 2005 to DCA; the ORC Report identified two objections on the water and sewer concurrency and school capacity; distributed handouts comprised of a March 9, 2006 letter from Charlotte County Public Schools indicating sufficient capacity to accommodate student projections, a March 8, 2006 letter from Maltese Developments, Inc. that the PSC has issued an order approving an amendment to the certificated territory of MSM Utilities for water and wastewater services that includes the proposed development as well as Lions, Tigers and Bears and other developments to the south; a PD concept plan for the project targets workforce housing for first time home buyers in the low \$200,000 range; the plan allows for a mix of multi-family towards US 17 and single family units to the rear of the development; indicated the out parcel recently purchased by the County for a fire station; explained the PD will allow the Board to establish conditions to address affordable, workforce housing issues; the mix of uses will be limited to 3.5 units per acre or 255 units even though the FLUM amendment would allow an increase to five units per acre or 368 units; the applicant will have to purchase TDUs to put additional units on the site; the applicant has met with staff at a pre-application conference as part of the PD process; and requested approval. **Commissioner D'Aprile** questioned the existence of commercial in the area. Attorney Berntsson reported the Wal-mart Distribution Center, the commercial project just approved by the Board, the Winn Dixie Shopping Center with mixed commercial about three miles to the south, and the Charlotte County Airport Overlay District expansion. Ms. Rogers stated the Comprehensive Plan indicates Suburban Areas are primarily undeveloped platted lands that may receive urban infrastructure and services in the future and may eventually become Infill Areas and at that time be designated to receive higher levels of infrastructure and services; issues relating to workforce housing are still undefined; advised data from the Metropolitan Planning

Organization (MPO) indicates that 40% of the workforce will be coming from DeSoto County for the Wal-mart facility but only a minimum number of employees will be necessary since it is a mechanized operation; and suggested a coordinated effort between the County and developers in the Housing Coalition to identify affordable housing sites along US 17. **COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).** Attorney Berntsson reiterated the concept plan for the PD is not using the full density of five units per acre; stated the more units built, the cheaper the unit price; and advised the applicant is willing to discuss increasing density with a higher percentage of workforce housing. **Commissioner Cummings** stated increasing densities in this area should be done as part of a corridor plan; recalled another approval based on a verbal assurance that the developer would provide workforce housing between \$110,000 to \$140,000 but after construction commenced, the house prices started at \$200,000; this is contrary to the Comprehensive Plan; and cutting up large parcels will limit future development. **Commissioner DeBoer** requested the range for student population for the County. Ms. Rogers explained staff has been working with the School Board. **Commissioner DeBoer** pointed out, even though population is growing in the County, the student population is reducing; stated a formal commitment is needed as part of the PD process for providing water and wastewater services to the project site; stated employees of Winn Dixie and other similar types of positions are not able to afford \$200,000 homes; and commented on the need to establish and implement innovative incentives for developers to reduce housing costs. Attorney Berntsson explained he is working with other affordable housing projects and expressed a willingness to work with staff on this problem. **Commissioner DeBoer** suggested the developer donate a part of the project site to affordable, workforce housing to offset costs. **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-028 AND PETITION PA-05-05-31-LS FILED BY CHARLOTTE HARBOR LAND HOLDINGS, INC. BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 27, 2005, AS REVISED ON MARCH 3, 2006, AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE. CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS DeBOER AND D'APRILE VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO." MOTION CARRIED: (3:1). Commissioner**

D'Aprile stated he still has concerns about the lack of workforce house and traffic impacts of the project.

(Commissioner Devos was present for the remainder of the meeting.)

Agenda Item 3, PA-05-05-32-LS (Legislative) District II

Inga Williams, Planner III, presented the application for a large scale plan amendment filed by GSR Capital Group LLC on 79.62 acres located east of CR 775, south and west of Gasparilla Pines Boulevard, and north of Lemon Creek for 327 residential units on 74.62 acres which is a density of 4.38 units per acre with five acres of commercial along CR 775; the heights of the buildings are two stories and 54 acres of open space; this was recommended and approved for transmittal with some reservations; DCA identified five objections in the ORC Report to amend the land use for the Wildflowers Golf Course; the concept plan was changed after DRC review based upon requests from neighboring associations and the revised plan might be presented today; DCA's first objection was on school capacity for the student population that would be generated by this project and the applicant has not submitted any information in response; the second objection was due to environmentally sensitive issues on the site pertaining to wetlands and preservation of heritage trees and staff has determined the site plan is sufficient to overcome that objection; the third objection deals with transportation impacts, staff received a traffic impact analysis from the applicant but determined it was insufficient, the applicant is in the process of revising the analysis, and staff has determined the objection has not been met since the revised analysis has not been received; the fourth objection pertains to hurricane evacuation clearance times based on an equivalent or lesser impact as a result of the transfer of density to the site and staff has not received any responsive information; and the last objection concerns wastewater service availability and Sandalhaven Utility has not provided any information regarding capacity although the Utility is undergoing an expansion, there are other developments being constructed and staff would have to consider them as well as capacity for this project; three objections have not been met; staff recommended denial; and corrected the agenda to reflect the P&Z Board's recommendation as denial subject to the applicant's submittal of information in

response to the objections. Attorney Waksler appeared on behalf of the applicant on the land use change from Parks and Recreation to Mixed Use on the privately owned Wildflower Golf Course site; the underlying zoning was never changed and continues as Residential Single Family-5; questions and discussion was held during the P&Z Board meeting on how the property became Parks and Recreation since designations in 1988 and the first proposed 1997 FLUM dated September 20, 1996 reflect the site as LDR and the site was changed to Parks and Recreation on the adopted 1997 FLUM; recalled during the P&Z Board meeting, Paula Hess indicated, as a member of the committee that developed the Comprehensive Plan, the County was deficient in the amount of Park area pursuant to adopted Levels of Service (LOS), and Park designations were placed on several privately owned properties for the Comprehensive Plan to be found in compliance by DCA; such a change would have been done by general notice not specific notice to effected property owners since there was never an attempt to rezone these properties to Parks and Recreation; staff has rectified the insufficiency of Parks and Recreation sites with construction of the Sports Complex, the Mid and South County Parks, and smaller parks acquired and developed since 1997. Attorney Waksler explained the applicant proposes redevelopment of the site to a Mixed Use community with a Commercial Center on the northwest corner of the site as an extension of existing commercial land use adjacent to the corner, preservation and enhancement of wetlands on the southwest corner of the site, and the remainder of the site would be developed with town homes and three-story over parking multi-family housing placement as determined after numerous meetings with surrounding property owners; the development will be less than the five units per acre zoning; the height of town homes will not exceed two stories at grade; the three stories multi-family units will allow more open space for green and blue ways and greater separation been the project and existing residential; reviewed advantages of making this a Mixed Use development surrounded by residential; Mixed Use development requires 20% open space but the revised concept plan has total open space at 43.25%; the transfer of density must come from other lands within West County including a portion located in the Coastal High Hazard Area; the net amount of density within the Coastal High Hazard Area will remain unchanged thereby addressing the school capacity and hurricane evacuation issues; a PD rezoning was submitted but it has been

delayed due to staff's involvement with Babcock Ranch issues; and expressed understanding, as a result of meetings with surrounding Association Boards, that even though they prefer the site not be developed, if it is allowed to be developed, they do not object to the site plan. Attorney Waksler addressed DCA's objections on school concurrency; school capacity will be considered on an area-wide basis not site specific basis; reported student generation rates based on the County history as a result of the 2000 Census reflects a .24 generation rate per household for 79 students whereas the highest end of the spectrum in the State-wide generation rate of .33 indicates that 109 students might be generated from this project; a transportation impact statement was submitted with the PD rezoning application based upon data from the County's concurrency report and actual traffic counts taken on Gasparilla Boulevard in February 2006; it showed that Placida Road (CR 775) would operate at a LOS C even with this project's traffic without the commercial and stated, with addition of commercial traffic, the LOS would continue to operate at a LOS C; staff has requested a traffic study encompassing traffic to be generated by this project and all projects approved but not yet built along Placida Road; Florida Transportation Engineering has reviewed DRC's files to satisfy staff's requests but many of the projects were approved without traffic impact studies and traffic distribution; the engineer will need to determine what percentage of traffic will make a right versus left onto Placida Road and traffic on segments of Placida Road in order to complete the evaluation; the traffic methodology is taken almost verbatim from the County's Impact Fee Ordinance but Public Works staff has not determined that this methodology is the appropriate one for the traffic impact analysis; cautioned the Board that revenues from new impact fees may be reduced by these projects since all projects may be required to do almost Development of Regional Impact (DRI) levels of traffic impact studies; and the traffic impact analysis developed by Florida Transportation Engineering did include a growth factor for along Placida Road and it was determined that the LOS would remain at C. Attorney Waksler advised TDUs will be required although the actual location of the Sending Zone has not been identified; Wildflower has identified Windward Golf Course has a potential Sending Zone, a meeting was held with Ms. Williams on February 24, 2006, the matter was referred to the County Attorney's Office, and no decision has been made on Windward's

qualification as a Sending Zone; since the TDU's must come from within West County, the net impact will be zero on density and hurricane evacuation time; DCA indicated concern about wastewater service since the Rotonda plant is currently under a Consent Order and needs expansion; this site would be served by Sandalhaven Utility but the plant is at the maximum level of capacity and it currently has an agreement with the Englewood Water District (EWD) to accept wastewater flows while discussions are ongoing about a permanent agreement for EWD taking Sandalhaven's flows; several discussions have been held with Patrick Flynn, Vice President of Utilities Inc., the parent corporation of Sandalhaven, and it has been indicated that if the agreements are successful, then capacity will be available to serve this site; Sandalhaven has already been approved by the County for a special exception for a plant expansion that might serve as an alternate to EWD; there is also a possibility of a direct connection to either EWD or the Rotonda plant since Charlotte County Utilities (CCU) has started to address issues at the Rotonda plant and it should come on line with capacity within a relatively short period of time; a PD rezoning will be brought to the Board with a requirement for water and sewer service as a condition of final detail plan approval; the applicant is willing to assume the risk and recognizes that development may not move forward until water and sewer service is in compliance with Policy 10.1.6 and SB 360; and requested approval of the plan amendment. **Chairman Moore** opened the public input segment. Lorain Hartnett, a resident of Sanctuary Condominiums, distributed a list of Condominium Projects near Wildflower Golf Course Development that represents coastal sprawl, expressed opposition to the proposed 300-condominium unit community, and requested the Board consider the public interest above the developer's economic return. Irene Dorsey, a nearby resident since 1993, stated the golf course view and a level of seclusion unique to condominium living were advertised amenities; pointed out a Comprehensive Plan amendment must show the need for any change; 430 units already surround this area including subsidized housing within one-half mile; expressed concern about emergency vehicle access; and requested the area be kept as it is. Stephan J. Shaffer, a Sanctuary condominium owner, urged the Board not change the FLUM designation of the Wildflower Golf Course since there are 2,200+ condominium units being built in the area and the increased need for Park areas. William Gibson, Sanctuary at Cape Haze Board of Directors

President, reported that Sanctuary is one of five surrounding communities working with the developer; the Association is opposed to changing the FLUM designation but, if the designation is changed to Mixed Use, the plan is fair and subsequent proceedings should be expedited since many residents will be going north soon. George Pease, resident and owner at Golden Tee Condominiums adjacent to the Wildflower Golf Course and a Board of Director Member, stated approval of this amendment will create a major change in his day-to-day lifestyle; the Association's preference is to maintain the status quo but acknowledged the developer's efforts and changes in the concept plan to meet residents' concerns; and if the project is approved, indicated a desire to continue discussions throughout the approval and development process. **(Assistant County Administrator Roger Baltz replaced Assistant County Administrator Kelly Shoemaker for this portion of the hearings.)** Curtis Force, a resident at 6800 Placida Road in Fiddler's Green II, commented on development changes surrounding the Wildflower Golf Course property; acknowledged the developer's efforts to meet residents' concerns and a lack of knowledge that there has been agreement amongst the Associations to accept the plan; stated the quality of lifestyles of adjacent residents will be decreased and the environment will be adversely influenced; and requested denial. Marvin Medintz appeared, on behalf of the Cape Haze Property Owners Association comprised of 400 homeowners and landowners, read from a statement in opposition to the proposal because of traffic and safety hazards, hurricane evacuation, and wastewater problems. Percy Medintz, a resident and member of the Cape Haze Property Owners Association, distributed and commented in opposition to the proposed development based on water and wastewater problems stemming from the estimated Rotonda wastewater plant shortfall of .236 mgd; the discharge of wastewater of the Sandalhaven plant to the Wildflower Golf Course as evidenced in the Annual Reuse Report handout; stated if this proposal is approved, the Golf Course property will no longer be available for wastewater discharge from the Sandalhaven plant; the applicant has not provided any plan to replace this function; the Rotonda plant is over capacity and under a Consent Order that will prevent connections for at least two years; referenced page two of the Fiddler's Green/Tall Pines Development Permit dated December 30, 2005 as backup for the Rotonda plant shortfall; and requested denial of the proposed development. **COMMISSIONER D'APRILE MOVED TO CLOSE**

THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS. Attorney Waksler expressed understanding of residents' concerns about the "concrete canyon" along Placida Road and pointed out this development is almost all two-story buildings over grade with the exception of six three-story buildings over parking in the northern portion that were relocated to address residents' concerns; reiterated the plan retains 43.25% open space and preserves 100% of the environmentally sensitive lands; submitted a copy of a warranty deed into the current owner from 1986 and at the time of the purchase, there was no land use on the site but the zoning allowed five units per acre; submitted a copy of a portion of the 1988 FLUM of the site and surrounding properties; the FLUM was changed in 1997 to Parks and Recreation without changing the zoning; this land always has been privately owned and a privately owned golf course since 1986; discharge onto the site has been treated and the redevelopment provides for a stormwater management plan to allow for proper discharge of water from the site; the expansion of the Sandalhaven plant provides for reclassification of the disposal system to a deep well injection system that will eliminate the need for disposal on the Wildflower site; the owner no longer wishes to operate a golf course and has asked for the inconsistency between the FLUM and zoning designations be resolved to what it was at the time of his purchase; and requested approval based on assurances that no development will occur without water and sewer, the traffic study that shows that Placida Road will maintain a LOS C, and the incorporation of some commercial to address surrounding residential needs. **Commissioner D'Aprile** expressed opposition based upon the increase in density with the proposed 327 additional units. **Commissioner Devos** requested verification that the zoning allows for the proposed development. Attorney Waksler advised the RSF-5 zoning allows five units per acre, it would not allow the three-stories over parking units or commercial but it would allow two-story town homes by special exception, and the change to Parks and Recreation stripped the site of rights to residential development. **Commissioner Cummings** acknowledged the rights of residents and private ownership of a golf course versus the public good, stated he is not prepared to accept the argument that there is a legal right to the density units when they were not challenged at the time of the change in 1997, and he will vote against the proposed change. **Commissioner DeBoer** pointed out property rights go in

both directions for the residents and property owner of the golf course; almost all of the objections have been met except transportation and sewer; recalled the Rotonda plant is already buying capacity from EWD and there are uncertainties regarding other entities buying capacity from EWD; this site will develop in the future unless the County acquires it for parklands; and hopefully, any future proposals will create less density than the current plan. **COMMISSIONER DeBOER MOVED DENIAL OF PETITION PA-05-05-32-LS FILED BY GSR CAPITAL GROUP LLC BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED MARCH 7, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** Commissioner Devos commented in opposition to the proposal because of the 1,200 units coming on line and stated more specific information is needed on the impact to utilities as part of plan amendment presentations. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

RECESS: 12:10 P.M. - 12:15 P.M.

Agenda Item 4, PA-05-09-63-LS (Legislative (All Districts))

Michael Konefal, Community Development Director, presented the petition for Comprehensive Plan Text Amendments to reduce the LOS on US 41 and SR 776 adjacent to the Murdock Village Community Redevelopment Area (CRA) from LOS C to LOS D; staff recommends adoption of the text amendments; and DCA issued and ORC Report on February 15, 2006 and found the petition to be in compliance. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.** Commissioner DeBoer questioned why the LOS is not being reduced to LOS D on all State Roads. Mr. Konefal commented on the intent to set a workshop within the next four to six weeks to update road concurrency with cumulative totals. **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-029 AND PETITION PA-05-09-63-LS FOR COMPREHENSIVE PLAN TEXT AMENDMENTS BASED ON THE FINDINGS AND ANALYSIS PRESENTED IN THE PLANNING AND ZONING STAFF REPORT DATED NOVEMBER 30, 2005 AND THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

RECESS: 12:20 P.M. - 1:03 P.M.

(County Attorney Janette S. Knowlton replaced Assistant County Attorney Richard E. Brown and County Administrator Bruce D. Loucks replaced Assistant County Administrator Roger Baltz for the remainder of the meeting.)

Agenda Item 5, DA-06-03-01 (Legislative) (Babcock Ranch)
Agenda Item 6, PA-05-09-61-LS (Legislative) District I

Michael Konefal, Community Development Director, gave a consolidated presentation on DA-06-03-01, the development agreement between MSKP III, Inc. and Charlotte County to address impacts as a result of the Babcock Ranch New Town proposal, and the large scale Comprehensive Plan Amendment, PA-05-09-61-LS, filed by Kitson & Partners/MSKP III, Inc., consisting of a FLUM change from Agriculture and Resource Conservation (RC) to Babcock Ranch Overlay District (BROD), an amendment of the Urban Service Area boundary of the County to include the New Town proposal, and an exemption of property from the TDU Ordinance. Mr. Konefal referenced the addition of the following items to the packet materials: replacement Map 11-E as part of the Comprehensive Plan approval, March 31, 2006 letter from the Lee County of Board of County Commissioners, two-page Figure 2 within the development agreement making reference to the Developer or District paying for certain things and a time-line without substantive changes, and the April 4, 2006 letter from Florida Forever Coalition. Mr. Konefal reported the P&Z Board, serving as the Local Planning Agency (LPA) recommended approval of the agreement and the FLUM amendment with a condition on the FLUM amendment to require that if the development does not go forward, it would revert back to the existing Comprehensive Plan and zoning designations and language was added that the reverter clause would run with the land not the developer; one public hearing may be held on both petitions with separate motions on each item; and stated anyone wishing DCA comments regarding compliance issues must sign in on the separate sheet and anyone wishing to speak during the public hearing must sign in on the sheet at the podium. Mr. Konefal reported the overall size of the property including the amendment area is 91,362 acres; the land to be sold to the State is 74,000 acres; Area 6 or the BROD area is between 13,500 acres to 14,000 acres; and approximately 3,500 acres in Lee County; this public hearing is pertaining to the BROD area in the southwest corner of the Babcock Ranch; the total development units proposed are 17,870 with 6 million

square feet of commercial; there are government facilities proposed as well as five schools, an education center, libraries, fire, police, parks, and a 27-hole golf course; there is a town center or downtown area with mixed uses as well as villages and hamlets comprised of mixed residential and local commercial; this is the formal adoption hearing; if approved, over the next two months, the Comprehensive Plan amendment will be sent to DCA for final review and if DCA approves the amendment, there will be a short appeal time period before the action is legal and final; the next step will be rezoning and developing specific land development regulations including a Comprehensive Plan amendment application in Lee County on the 3,500 acres; and this development will go through as a DRI, not a Rural Lands Stewardship Program, followed by subdivision plats and building permits. Mr. Konefal explained the law provides that a Comprehensive Plan amendment application may be filed separately or with a DRI application; the applicant filed only the Comprehensive Plan amendment application to be followed by a DRI application; and the development agreement provides more details in the absence of the DRI application. Mr. Konefal advised the Board approved transmittal of the amendment to DCA on December 14, 2005 with 36 conditions as set out in the staff report; DCA completed its review and submitted an ORC Report on February 10, 2006 that included comments similar to the staff report; staff has been working with the applicant to address the comments and conditions; and outlined 32 of the 36 conditions that have been satisfied. Mr. Konefal summarized the outstanding conditions relating to the exemption from the TDU Ordinance amounting to about \$213 million based on 10,665 units that may set a precedent and staff cannot determine if the project is financially feasible without this exemption; no decision has been reached between the Florida Department of Environmental Protection (FDEP), South Florida Water Management District (SFWMD), and Southwest Florida Water Management District (SWFWMD) on securing potable water; the applicant has submitted a needs analysis that indicates the County's platted land strategy is a flawed approach to get development to occur in Urban Service Areas and the new town approach is better but the analysis does not explain the need for this development; and at the December 2005, staff reported that this proposal met 9 of the 13 indicators of urban sprawl and identified exemption language that allows for new towns or innovative communities to obtain an exemption from the urban sprawl requirements but staff

continues to believe it is urban sprawl even though the applicant stated they are entitled to the exemption. Mr. Konefal reported the Board should consider this proposal as a whole based on the development agreement, the Comprehensive Plan amendment, and all 36 conditions including the four outstanding conditions. **Chairman Moore** requested consensus to consolidate the public hearings with one public input session. **(Board consensus.)** Sydney Kitson, Kitson & Partners/MSKP III, Inc., expressed appreciation for staff's efforts, dedication, and open communication regarding the proposed sale of approximately 73,000 acres for permanent preservation, which is the largest single acquisition in the State's history, and development of Babcock Ranch based on the commitment to preserve as much of the Ranch as possible; Kitson and Partners agreed to sell 81% of the Ranch to the State below the appraised value and well below the purchase price; Lee County has committed \$41.5 million towards the purchase and the Florida Legislature is in the process of approving the remainder funding but it is up to Charlotte County to decide whether the acquisition and proposed development of a self-sustaining community in the southwest corner of the Ranch will go forward; Kitson & Partners has provided detailed plans and has made a commitment to mitigate financial impacts as well as addressed all of staff and DCA concerns; Kitson & Partners has agreed to move forward through the DRI process to assure that the development will be an asset to the entire region; the plan is a win-win situation for everyone based on growth paying for preservation; and requested the Board make its decision on factual information. Mr. Kitson explained the Babcock Family will sell the Ranch even if the sale to the State does not occur but the entire 91,000 acres will be sold into the private sector without an opportunity for preservation; under the Ranchettes scenario, County taxpayers would bear all of the costs instead of a self-sustaining community with mitigations and impacts addressed through the development agreement requiring Kitson & Partners to bear the cost of the new community; Kitson & Partners has committed to pay for transportation impacts including \$208 million for Charlotte County and \$309 million for Lee County off-site road improvements; construction of new schools for the community will cost \$154 million, the 2 mill assessment that will be paid by all residents in the new community, starting long before schools are needed, will support a substantial portion of that cost; additionally, Kitson & Partners has created a developer imposed builder contribution

fee that can be bonded to pay the remaining costs of school facilities; Charlotte County must commit to the exemption of fees pursuant to the TDU Ordinance in order to make the public purchase of land possible; the \$350 million to be paid by the State and Lee County will not subsidize the new community; the land is being sold to Lee County and the State for substantially less than what was paid; the new Babcock Ranch Community will subsidize the preservation of 73,000 acres as well as its own improvements and create a surplus for taxpayers as 17,870 homes and up to 6 million square feet of non-residential uses are added to the County's tax roll; the total financial and economic impacts to the County will be positive at build out but there will be time at the beginning that costs of providing new services out pays increased revenues; the County will not bear that financial burden because the agreement includes a stabilization fund to be funded by the development to make up any deficit until the cash flow turns positive; at that point, the County will direct 50% of net gains from tax revenues to reimburse monies advanced by the development; Kitson & Partners is committed to assuring that there are no negative financial impacts to Charlotte County; Kitson & Partners along with Morgan Stanley can fulfill those commitments; and the new self-sustaining and environmentally sensitive community is needed for responsible growth management through this private/public partnership. Mr. Kitson stated Kitson & Partners can make a presentation or answer questions now or after public comments. **(Board consensus to move forward with the public hearing.)** **Commissioner DeBoer** suggested information on the water issue be presented prior to public input. **Commissioner Cummings** opined new information should be provided prior to public input. **Commissioner DeBoer** stated a letter was received from the Southwest Florida Water Management District Executive Director David Moore who is present as well as representatives from the Peace River Regional Water Authority and he has questions regarding the letter and assurances about water availability. **Commissioner Devos** agreed. David Moore, Executive Director, offered to answer questions on the letter. **Commissioner DeBoer** requested verification that Charlotte County's future water needs would be assured if the County relegates its preferential position to use of water from the Babcock Ranch to a regional approach that will eliminate the inter-district transfer of water issues. Mr. Moore stated that is correct since Water Management Districts are charged to insure the adequacy of water

for all feasible and beneficial uses; master planning encourages a regional approach to enact that policy; a master plan is being conducted and should be done by the end of this year; as a result of the meeting of about 10 days ago, a request will be made to the Water Supply Authority to add an investigation to the master water plan for surface and ground water sources along the I-75 corridor in southern Charlotte County and the Babcock Ranch; and the water supplies will be needed as well as a time sequence for growth and development of the water sources. **Commissioner DeBoer** stated the primary problem is trust; referenced a March 21, 2006 newspaper article with comments from a Manatee County staff member, Mr. Zimmerman, indicated water resources can be developed in Manatee County for Manatee County; the comment does not support a regional approach; and questioned how SWFWMD can help Charlotte County with the Peace River Authority to ensure water needs are met in a timely fashion. Mr. Moore reiterated the District's statutory directive to ensure that there are adequate supplies of water for all users including public, agriculture, and industry; Regional Water Supply Authorities are utilized and referenced the consolidated efforts of Hillsborough, Pasco, and Pinellas together with Tampa and St. Petersburg in building the Nation's largest seawater desalinization plant and a 15 bgd reservoir that allowed the District to take 11 well fields that were having a major impacts and reduce the pumpage in half at reasonable costs including State and District funding and the same thing is being proposed here; the District plans for 10, 15, and 20 years in the future by reviewing master plans; and water supply master plans are reviewed at least on an annual basis. **Commissioner DeBoer** acknowledged the enacting legislation of the Peace River Water Authority to provide adequate water supplies and requested SWFWMD's commitment to work with Charlotte County to ensure, if the County moves forward with a regional approach, the benefit received becomes a priority for jurisdictions that commit their current and future needs to the regional approach. Mr. Moore responded absolutely, SWFWMD supports a regional approach and looks forward to a continuing partnership with the County, and preferential funding to jurisdictions involved with regional water supply efforts. **Commissioner Devos** expressed concern with the statement that water sources in Manatee County would stay within that county. Mr. Moore stated that is not his understanding; there is a regional transmission loop study being conducted by the Authority and it should be done this summer;

all intentions are that it should interconnect the resources of Manatee and Sarasota Counties at a facility in Ft. Ogden to ensure the maximization of the use of water including surface water reservoirs and well fields; and the goal is to maximize the use of flood waters during wet years, rest the well fields, and then use ground water during the dry years. Mr. Moore stated he met within the last two weeks with the Manatee County Administrator who indicated a willingness to participate as a regional partner in the loop system, he has spoken with some of the Manatee County Commissioners and will be speaking with them again in the next two weeks, and this seems the direction they are moving forward with. **Commissioner Devos** expressed concern over the mistrust and stated, even though the letter sounded good, there is nothing new to make her feel confident that between now and 2013 alternative water sources will be identified for a regional approach and to assure that Charlotte County's water needs are met since Manatee and Sarasota Counties are looking for sources within their own counties. Mr. Moore explained a fully integrated regional system is difficult to accomplish but the expansion of the Peace River option to about 33 mgd will cover water needs up to 2013; beyond that time period, new sources include capturing excessive water from the Flatford Swamp, flood waters in coastal Sarasota, possibly expanding the Shell Creek Reservoir in Charlotte County, drilling additional intermediate aquifer wells in Sarasota County, the "Mars Project" in Manatee (taking reclaimed water out to farmers, getting farmers off of ground water, and taking some of the water as a credit), as well as additional ground water resources and intermediate and Florida aquifer in Charlotte County. **Commissioner Devos** stated, hopefully, Charlotte County will be allowed to drill for water on Babcock Ranch; there will not be any issues relating to an inter-district transfer of water; and based on Mr. Moore's comments today and the previous meeting, expressed a willingness to make a commitment with reservations. Mr. Moore recalled the Tampa Bay Area made the commitment 8 or 9 years ago, it has panned wonderfully for them, and stated he would do his best. **Chairman Moore** expressed faith and confidence in Mr. Moore and questioned Mr. Moore on his attendance at the Water Authority meeting tomorrow. Mr. Moore expressed uncertainty but he has conveyed his thoughts to the Chairman and Executive Director and recently has spoken to most of the Members. **Commissioner Cummings** stated the letter accurately reflected prior discussion. Mr. Moore

explained there were additional commitments; stated at last week's meeting, he conveyed that regional water supply planning is being done and requested modification of the master water plan to include two additional investigations; investigations have been done on 6 supplies and the addition of an assessment of surface and ground water resources in southern Charlotte County along the I-75 corridor and surface and ground water resources on Babcock Ranch is a part of the long-range regional water supply plan; and expressed a mixture of all of these supplies with sequencing will be necessary to meet the region's water needs. **Commissioner Cummings** expressed understanding that Charlotte County will receive, in exchange for making this a regional project, is funding of the feasibility study or the master water plan. Mr. Moore stated the likelihood of securing grant funding will be increased as well as the feasibility study including ground water, if it is a part of a conjunctive fully integrated system of diverse supplies specifically relating to the transmission mains that can move alternative supplies into a region. **Commissioner Cummings** concluded grant funds would be available for the feasibility study and a 50/50 match on interconnects such as between CCU and the City of Punta Gorda. Mr. Moore advised the alternative source from the City of Punta Gorda is surface water and, as part of a fully integrated conjunctive system such as the regional loop system, it would enhance the eligibility for grant funds. **Commissioner Cummings** rationalized that it may increase the potential for grant funding for an interconnect between Charlotte County and the City of Punta Gorda. Mr. Moore clarified a portion of a pipeline under the Peace River would be eligible for grant funding. **Commissioner Cummings** recalled conversation about the Babcock Ranch water and the ground water that the water supply plan out to 2025 shows reasonable beneficial uses for all consumers and the Babcock Ranch water as a future source. Mr. Moore explained current expansion of the Peace River option together with the gap plan will meet the County's water needs to 2013; supplies being investigated in the master water plan with localized projects reflect sufficient water to 2025; the change involves what will compose the mixture; at the meeting, he indicated the next three supply sources would be Flatford Swamp, Cow Pen Slough, and Shell Creek; and now there is a commitment to look at resources in southern Charlotte County coastal areas and Babcock Ranch but, in the long term, all of these sources will be necessary to meet growth needs. **Commissioner Cummings**

pointed out in the last contract with the Water Authority, if the County puts in a request with funds to buy the water, the Authority is obligated to provide that water within 7 years. Mr. Moore agreed. **Commissioner Cummings** stated the regional approach has been in the works for five years and the PD&E for project #1 has not ever been started. **Commissioner D'Aprile** read the following into the record and requested Mr. Kitson's agreement: "I believe Charlotte County is going to get water that it needs. We're all working towards that goal and I am pleased that the Water Management Districts are working with us. As we all know, we need that water. We need to get moving on the studies, the modeling, and everything else to prove that water can be withdrawn from Babcock Ranch for Charlotte County. I understand this is an expensive process. Back in the fall, Mr. Kitson and his company were going to pursue the permits and supply the water for Charlotte County. This would have been his expense and his risk. The State said he couldn't take the water off of State land but did say that Charlotte County could pursue the water on State land. We need to work together. As Kitson pursues water permits for his development, we need to pursue water permits for Charlotte County. I want Kitson and his development to pay for pursuing those permits, like he would have done last fall. If Charlotte County gets the permits, and when Charlotte County has the money, we will reimburse Kitson for those expenses. If Charlotte County doesn't get the permits, then we don't reimburse Kitson. I do not want this to be a part of this Comprehensive Plan today, but I would like a simple agreement between Kitson and Charlotte County to pursue those permits, with Kitson funding the effort. If we get the permits, and when we have the money, we will reimburse Kitson. If not, no reimbursement. Simple as that." Mr. Kitson indicated the statements are accurate; recalled when he appeared before the Governor and Cabinet, the big issue was they did not want a private company taking water off of public owned land for profit; through negotiations, of which **Commissioner DeBoer** was a participant, it was determined that Charlotte County would be allowed to take water off of State owned land which has never been done; stated that commitment was made; and agreed with the statements. **Commissioner D'Aprile** presented a copy of the statement for inclusion in the record. **Chairman Moore** announced public input procedures. Dr. Robert Burns appeared on behalf of Florida Gulf Coast University, expressed appreciation for everyone's efforts and long hours, and requested the Board

approve the plan and join with Kitson & Partners to proceed to the next level. Clark Keller recalled several Board Members were quoted in a newspaper as stating no water, no deal but now he is hearing no water, you pay for the permits; this does nothing to put water in the pipes and it is a step backward; there are too many contingencies, the agreement is too open ended; the original capture rate was 68, then 50, and now 22; the County sustained significant losses due to hurricanes; the costs associated with this development are not needed; and he does not want to live in another southeast Florida. Andrew H. McLeod, Government Affairs Director for The Trust for Public Land, a National non-profit land trust organization located in Tallahassee, Florida, appeared on behalf of 10 member organizations of the Florida Forever Coalition in support of the protection of 73,000 acres of Babcock Ranch and the State's acquisition to be achieved by utilizing State General Revenues in lieu of annual Florida Forever Program funding. Ed Oman, a North Port resident, health care professional, and owner of Warm Mineral Springs who developed the environmental master plan for the Springs, opined no developer would take on a project of this magnitude unless they have a passion for it, a respect for the environment, and they are in it for the long haul; administrators at the County level have done an excellent job of breaking out details including protections for the County in the proposed agreement and plan amendment; the proposed master plan is great and this project, if the developer completes it, will make the citizens proud; and requested approval of the agreement and plan amendment. A young girl (name was inaudible) stated Babcock Ranch should be saved because enough land has already been used up; the trees should not be cut down because they provide oxygen; and wondered where will all of the animals would go, especially the Florida panther, if development continues on their habitats. Ellie Boyd read from a statement on behalf of the Responsible Growth Management Coalition, Inc. Board of Directors reflecting concerns and changes to address concerns on insufficient water, lighting requirements near preserve and greenway areas, inadequate wildlife crossing requirements, and Policy 2.5.17.10 relating to the use of created wetland areas for water management. Alissa Bierma, of the Conservancy of Southwest Florida, stated a lot of issues remain unresolved but one of the issues will be addressed by requiring that, if adopted, all development within the Babcock Ranch Overlay District will be reviewed as a DRI if the density of the project

is greater than one unit per 10 acres as suggested by the LPA. Barney Mitchell, a 19-year Charlotte County resident and 30-year south Florida resident, presented petitions and cards signed by individuals who support the current Comprehensive Plan and do not support any decision to amend it to accommodate any developer's plan or vision to build a city within that portion of Charlotte County and encouraged Board Members not to vote on the amendment until all of their questions have been answered to their satisfaction. **(Chairman Moore accepted the petitions and cards.)** Peter Bartolotte, a Port Charlotte business owner, expressed support for moving forward with the Babcock Ranch project; provided history of the Babcock family and Ranch since 1911; pointed out input received as a result of 29 charrettes have been incorporated; and stated Mr. Kitson has proposed a vision that the Babcock Family and Charlotte County citizens can be proud of. Rosalynne (Rose) Scarlett-Christ, Scarlett International President and CEO, as a representative of the Southwest Florida Outdoors Men Association to the Board of Directors with Babcock Preservation Partners, a DeSoto County resident and member of numerous organizations in Arcadia, explained the State of Florida and the Comprehensive Plan require developers to demonstrate project features are needed in the community; staff's report identifies the need issue has not been adequately addressed; and requested denial. Peter Paschki, a County resident and a Charlotte Harbor Sierra Chapter Member, recalled the Old Time Florida and the natural environment and habitats as well as General Development Corporation promises; commented on the need to balance progress with the quality of life; water resources in South County are unknown at this time; and requested a slow down by the Board. Stanley Corwin pointed out the headline in the newspaper yesterday read "Proposed road riles residents" and he immediately thought of a city being built for 40,000 homeowners in the middle of the country where he lives; stated there are other ways to preserve Babcock acreage and this development is the most expensive way; the price of the proposed city includes that 16,000+/- density units to be donated to the developer at an approximate cost of \$400 million; opposed modification of the Comprehensive Plan that provides orderly development of Charlotte County; stated sprawl invites other developments and eliminates wildlife and habitats; commented on the high cost to construct adequate roads and widen SR 31 including the bridge and SR 78; and requested a decision be tabled until less costly options are explored. Paul

O'Connor, Lee County Planning Director, referenced the letter sent by Lee County Community Development Director Mary Gibbs and included in the packet, stated the decision by this Board will impact the future of all of Southwest Florida; joined in staff's report and concerns; Lee County's primary concern is for fair and equitable mitigation of the impacts of the project regardless of jurisdictional limitations; Charlotte County's Comprehensive Plan does not address mitigation in Lee County; transportation is the big ticket item since the plan reflects the majority of road improvements are in Lee County; and Lee County would like assurances incorporated into the plan amendment that would limit additional development above what is currently allowed until such time as Lee County has executed an interlocal agreement or a development agreement to address mitigation concerns. Douglas Tucker, a Charlotte County citizen who moved to Charlotte County with his family in January 2004 from Atlanta, Georgia to get away from urban sprawl, referenced definitions of sprawl and interpreted need as something people want; stated there is a need because this development offers amenities and opportunities not found in other communities; he has invested 58 hours of his own time attending charrettes to learn more about the proposed development; and encouraged the County to be a leader and support the proposed development. Gail Giles, an El JoBean resident, stated she attended the P&Z Board meeting at which she gave a list of failed developments in Charlotte County; outlined some of the failed projects and high costs to the County; expressed concern about the indefinite amount of money Kitson will place in an escrow account to cover costs and possible privatization of water sources on the Ranch; and encouraged the Board to stop hurrying and let the next Board make these decision after a full review. Ron Thomas, Charlotte County Habitat for Humanity Executive Director, reported Collier County Habitat for Humanity has been forced to buy land out in the middle of nowhere to build 100 houses to which people must travel many miles to and from work; commented on the need to look at new visions including Kitson's proposal to integrate people of different economic backgrounds; Kitson has made a commitment to provide 10% for affordable housing; and encouraged the Board to approve the project. Sue Reske, Greater Charlotte Harbor Sierra Group Chairman who assists her husband realtor, stated every property has its price and requested the County to hold to the Comprehensive Plan and not entertain all of the developer exceptions. Ruth Bromberg, a three-year County

resident who grew up and moved from Long Island, New York, to enjoy nature and the environment, requested the Board wait to make a decision until a full review has been done. Arnie Sarlo, Babcock Ranch General Manager for 8 years, stated the Ranch has been for sale for 5 years; there has been no rush; consideration should be given to what is best for Southwest Florida; stated it is wonderful that Kitson will place 73,000 acres in Preservation with a development plan; there are no guarantees in life but this plan promotes a win-win situation; and requested approval. Alessia Lethers, stated she sent an email with her speech today; answered questions why the proposed development should be in this location; pointed out staff's report indicates 9 of 13 urban sprawl indicators are present with this project; stated 10% for affordable housing is low; the developer has been working with strategies based on fear and ingenuity; there is no rush; and even though the developer has done a good job, the Board should wait to make a final decision.

RECESS: 3:15 P.M - 3:25 P.M.

Raymond Kaiser, a private environmental consultant who has worked with the Kitson Team since January 2006, commented on the need to address environmental issues versus economics and decide which is the most important; one of the important factors is whether Mr. Kitson and his team can be trusted to fulfill all commitments; opined Mr. Kitson and Team Members are caring people who are committed to this project including the financial and environmental aspects; and stated he is very proud to be a part of the project. Steve Tutco, a 22-year Southwest Florida resident who has been involved with environmental movements for a long time, stated the best day of his life was when he went to work for the Babcock Ranch and Family; commented on the unique situations created and maintained on the Ranch; everyone should be very proud of the Ranch and its operations; he is the retired Eco-tours Director and recalled many comments from visitors about the tours and Ranch; and commented in support of approving Kitson's plan that will preserve land into perpetuity. Collette Corwin, stated she lives in the area that will be impacted by the proposed city; reiterated the need issue has not been addressed and water issues remain unresolved; and stated the city can never be a self-sustainable community. Ellen Peterson, appeared on behalf of ECOSWIFT the Environmental Confederation of Southwest Florida, stated Charlotte County will ultimately

end up taking legal responsibility for Kitson and Morgan Stanley that has class actions lawsuits filed against it; privatization of water might work on Babcock; and explained 80% of the people she has spoken with who are here today are against this project. Pennie Atkinson stated last Friday she received a mass e-mail from the Defenders of Wildlife soliciting votes to the United States Fish and Wildlife Service in support of preserving the Florida panther; as of 11:21 A.M. today, 33,662 votes had been received asking the Conservation Fund to make saving the Florida panther its first priority; read the letter received on the need to protect the Florida panthers and their habitats against "out of control developments", urbanization, and conversion of lands for farming, logging, mining, mineral exploration, and the lack of land use planning; the proposed city is on 17,000 acres of panther habitat; and asked the Board to give the Florida panther a fighting chance. Ruby Daniels stated she has lived near Babcock Ranch since infancy; last time she spoke on her personal thoughts, feelings, and experiences related to the Ranch; explained Babcock Ranch has been a significant part of the surrounding community and country way of life; a lot of her neighbors are concerned about the proposed development of Babcock Ranch and want to maintain the existing way of life, culture, and history; and asked that their desires be considered with as much importance as that of the developer. Thomas R. Vick, stated during a recent appointment at the VA Clinic, he spoke to a number of doctors, nurses, and patients and ascertained there is no support for this development; none of his neighbors support this project; most people moved to Charlotte County for the small town atmosphere; and this project will promote urban sprawl. Cindy Bear, a member of the Babcock Preservation Partnership, a teacher, and a 5th generation Floridian, referred to 9-J-5, Florida Administrative Code and the Comprehensive Plan that indicates the primary reason to significantly alter the Comprehensive Plan would be to provide for the public good beyond negative impacts; the proposed city is not needed; commented on the limited opportunities for informed public input based on constantly changing documents; according to State and County staff, this project meets the legal definition for urban sprawl and there are admitted transportation impacts; expressed concern about the water usage estimated at 6 mgd of potable water and 15 mgd for irrigation; and requested the Board uphold the Comprehensive Plan for the public good. David N. Milburn, a 5-year Babcock resident and

employee, opined the proposal provides a win-win situation and requested Board approval. Don Ross, a former Commissioner, stated he would relish serving as a Board Member today since the proposed development is such a great opportunity; commended staff for addressing the 36 issues and policy matters; this development is positive on a short-term and long-term fiscal basis; commented on the State and regional participation on this project; and pointed out there will be proven private management for at least 5 years and maybe 10 years. David Goodrich stated the most important issue should be clean water rights for growth for life; one company just procured 1,600 acres for solid waste management adjacent to the water supply and borders of Babcock Ranch; and encouraged the Board to secure the rights to clean water for future generations. Liz Donley, Friends of the Charlotte Harbor Aquatic Preserve President for the 3rd term, outlined the purpose of the Preserve in relation to the unintended consequences of the Babcock Overlay District on the Estuary as well as exempting Kitson and Morgan and Stanley from the TDU Ordinance and giving them over 10,000 to as many as 16,000 developable units will have negative impacts on efforts to protect and restore Charlotte Harbor resources; and urged the Board to support the TDU Ordinance and require Mr. Kitson to resubmit the Comprehensive Plan amendments with a strategy to transfer from a coastal area the units needed for building. Andrew (Andy) Dodd, a Charlotte County citizen, stated even though an exemption from the TDU Ordinance will create a precedent, the proposed development will preserve 80% of the property, and this is the right way to go. Carl Rowe stated the southeast corner of Charlotte County is beautiful; he collected 17,000 signatures to save the entire Ranch, \$252,000 has been collected from individuals, and over 200 organizations in Lee and Charlotte Counties do not want this development; the proposed city has a vision for some wonderful design features but development on this site will have negative impacts on efforts to revitalize and develop Murdock Village and water quantity and quality and enhance urban sprawl on agricultural lands; and encouraged the Board to deny the development agreement and the plan amendment to create the Babcock Ranch Overlay District. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.** Eva Armstrong, Division of State Lands Director, requested an opportunity to speak. **(Board consensus.)** Ms. Armstrong explained Mr. Moore's letter indicates that action has already

been taken to direct the Peace River Water Authority to begin looking at local water supplies; under the proposed agreement, the County has the ability to make application for a consumptive use permit; no county need go through that process alone; and this would be a great opportunity to forge a partnership for the water. **Commissioner Devos** agreed and stated if necessary, Charlotte County will go it alone and opined recent meetings have promoted a positive approach towards water issues. Ms. Armstrong suggested any call for help be made early; she has been involved in the Babcock Family property and corporate sale from the first; explained under the Florida Constitution, the State cannot buy a corporation; the Cabinet, Governor, and Legislature are not willing to pay over \$7 million in taxes; this is going to be the largest land preservation by the State for \$350 million in one county; and based on her working experience with Mr. Kitson for almost a year, Mr. Kitson will stand by his commitments. **Commissioner DeBoer** stated this is a fantastic opportunity and success of the project will be based on the application of discretionary powers over the developer throughout the regulatory process. **COMMISSIONER DeBOER MOVED APPROVAL OF AGREEMENT #2006-013, SECONDED BY COMMISSIONER DEVOS.** **Commissioner Devos** stated the decision on this development would be the biggest and most difficult decision she will make as a Commissioner and commented on the need to preserve as much of native Florida as possible for future generations. **Commissioner D'Aprile** thanked the public for their input; stated he does not want 3,500 20-acre parcel ranchettes on Ranch lands; and indicated support for the motion because Mr. Kitson agreed to everything in writing including preservation of 73,000 acres into perpetuity and construction of schools, fire stations, roads, and public buildings at no cost to taxpayers. **Commissioner Cummings** stated his perceptions are not quite the same; recalled the Babcock Preservation Partnership offered a \$480 million acquisition package for preservation of the entire 91,000 acres; the Babcock Family wanted out of a tax bind; vehicles not houses kill Florida panthers; this development will more than double trip generation over "the do nothing option of developing the land as Ranchettes"; expressed concerns regarding the increase of growth and water usage at build out; stated the project should be reviewed during the DRI process in conjunction with the 2050 plan, if that is the direction of the Board, because it may pull impacts more up into Charlotte County and a commercial node may be necessary at the intersection of SR 74

and 31; pointed out the provision that indicates the Board will support a special district at the State level is open ended and suggested Board approval be required prior to it going before the Legislature; recalled Mr. Kitson's willingness to subsidize the commercial and services in advance of residential construction but he did not find it in the agreement; under passes for SR 31 for wildlife should be included in the agreement; the Comprehensive Plan requires a reduction in development potential by 1% per year; based on discussions with FDEP, they are not retiring the 5,000 units although it is highly unlikely they will use them but FDEP is retaining the right to sell them in the future so 16,500 units will be created not 10,000 units; and credits for the TDU's from FDEP might allow the County to be compensated for the contribution for this project estimated at \$47 million. **Commissioner Devos** recalled mention about the wildlife corridor and using part of the TDU credits as a match for acquisition of land in West County. **Chairman Moore** requested comments from County Administrator Bruce D. Loucks and County Attorney Janette S. Knowlton. Mr. Loucks stated staff has done a good job and this is now a policy decision of the Board. Attorney Knowlton stated additional language to address **Commissioner D'Aprile's** request has been negotiated and it can be incorporated into this agreement or a side agreement. **Commissioner D'Aprile** requested the question be called. **Commissioner DeBoer** expressed uncertainty about the credits since no credit methodology has been established and there will be a lot of negotiations on this aspect. **Commissioner Devos** requested the additional language. Attorney Knowlton proposed addition of the following language as paragraph 4.1.(8) on page 12: "Developer agrees to fund all testing and monitoring throughout the entire Ranch as required for the successful attainment of the three consumptive use permits. County agrees to reimburse Developer for the costs associated with testing conducted outside the development area if, and only if, County is granted the necessary permits to allow withdrawal of water from the property for use throughout the County." Ernie Cox on behalf of MSKP III and Kitson and Partners stated the language should relate to "consumptive use permits" instead of "three consumptive use permits" and the remainder of the language is acceptable. **Commissioner D'Aprile** accepted the language to address his request. **COMMISSIONER DEVOS AMENDED THE MOTION TO INCLUDE THE LANGUAGE AS READ INTO THE RECORD BY ATTORNEY KNOWLTON AND AS MODIFIED, SECONDED BY**

COMMISSIONER DeBOER. CALL ON THE MOTION TO AMEND THE MAIN MOTION: DECLARED UNANIMOUS. CALL ON THE MOTION TO APPROVE AGREEMENT #2006-013, AS AMENDED: CHAIRMAN MOORE AND COMMISSIONERS D'APRILE, DeBOER, AND DEVOS VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO." MOTION CARRIED: (4:1). COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-030 FILED BY KITSON & PARTNERS/MSKP III, INC. TO CREATE NEW POLICIES FOR THE BABCOCK RANCH MIXED USE OVERLAY DISTRICT BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE STAFF REPORT, EVIDENCE AND FINDINGS OF THE PLANNING AND ZONING BOARD ACTING AS THE LPA, AND EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS. Mr. Konefal advised Figure 2 and amended Map 11-E was included with the language requested by the LPA. Commissioner DeBoer expressed concern about Policy 2.5.17.5 on the Corridor Greenway, page 18 of the Amended Goals, Objectives, and Policies for the Babcock Ranch Overlay District and requested deletion of "primitive camping" as an allowed recreational use in the Corridor Greenway. COMMISSIONER DeBOER MOVED APPROVAL TO DELETE "PRIMITIVE CAMPING" AS AN ALLOWED USE UNDER POLICY 2.5.17.5, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. CALL ON THE MOTION TO ENACT ORDINANCE #2006-030 WITH AMENDMENT TO POLICY 2.5.17.5: CHAIRMAN MOORE AND COMMISSIONERS D'APRILE, DeBOER, AND DEVOS VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO." MOTION CARRIED: (4:1).

MEETING ADJOURNED: 5:25 P.M.

Signature on file in Commission Minutes
Thomas G. Moore
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

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