

LAND USE PUBLIC HEARINGS
BOARD OF COUNTY COMMISSIONERS

JUNE 20, 2006

A regular meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Moore, Commissioner D'Aprile, Commissioner Cummings, Commissioner DeBoer, and Commissioner Devos. Also in attendance were County Administrator Loucks, Assistant County Attorney Browne, Minutes Supervisor Nice, Deputy Clerk Manley, and Executive Assistant Dillon. The following members were absent: None.

The meeting was called to order at **9:00 AM**. (**Proof of publication was in order.**)

I. Planning and Zoning Agenda

1. **Z-06-05-28 (Quasi-Judicial) Commission District II**
Per Chapter 125.66, F.S., and Ordinance pertaining to the Charlotte County portion of the Babcock Ranch located north of and adjacent to the Charlotte - Lee County line, east of and adjacent to State Route 31 and approximately 7± miles south of the intersection of County Route 74 and State Route 31; creating a new section 3-9-54 of the Code of Laws and Ordinances of Charlotte County, Florida; establishing a "Babcock Ranch Zoning Overlay District Code"; providing for definitions, a short title, boundaries; intent and applicability; providing for principal uses and structures; providing for development standards; providing for conflict with other ordinances, inclusion in the county code, severability; and providing an effective date.

(Deputy Clerk Manley administered the oath to prospective witnesses. Chairman Moore polled the Board for ex parte disclosures. All Board Members indicated ex parte communications.) Thomas Cookingham presented the petition for the second public hearing to adopt the overlay zone and planning principles; as a result of the first public hearing held on June 13, 2006, the Board had concerns on the number of dwelling units and the impacts; and accessory units have been removed.

Mr. Cookingham explained approval of the agreement provided specific development plans; reviewed the Master Plan, Conceptual Master Plan and Use Summary for lakes, rights of way, and development on 8,600 acres; and the Preliminary Tract Overlay.

Mr. Cookingham commented on the Traditional Neighborhood Design (TND) Principles; Proposed TND Standards; outlined development based on the Town Center Concept and the Village and Hamlet Concepts including Mixed Uses, single family and multi-family dwelling units, side and setback requirements, and a variety of street types and street scapes.

Mr. Cookingham reviewed the internal transportation plan for intermodal development as set out in the ordinance. Mr. Cookingham commented on the environmental concept with greenways connectivity on about 7,000 acres and 250 acres of parks.

Mr. Cookingham offered to answer questions on the design standards. **Commissioner D'Aprile** requested the minimum size of residential lots. Mr. Cookingham responded about 1,000 square feet.

Syd Kitson advised the application for additional units for mother-in-law apartments, also known as granny flats, has been withdrawn; commented on the importance of communications with County officials and staff; and explained a misunderstanding occurred because he did not think this issue was

controversial based on prior discussion and comments relative to Murdock Village.

Mr. Kitson added "he did not try to do an end run and create first downs" with Babcock Ranch; his goal is to preserve 74,000 acres and create a livable community to be proud of; trust is earned; and it is a two way street.

Chairman Moore announced public hearing procedures. Dr. Charles O'Connor stated the project is in the wrong location; it will be a disaster to agricultural lands; opposed the waiver of transfer of density units and the loss of revenues to the County; and requested denial of the ordinance.

Ron Thomas expressed the belief that reasonable cost housing should be provided whenever possible; recognized the need for affordable housing; and suggested mother-in-law apartments be considered in the future.

Sue Reske requested the Board vote against the ordinance and waiver of the transfer of density units due to the loss of revenues; pointed out the proposed development of 45,000 structures is twice the size of Naples; and stated Kitson should abide by the original density.

Betsy Roberts expressed opposition based on the adverse impacts to wildlife and habitats e.g. Florida panthers and corridors; and urged the Board to vote no.

Cindy Bear requested action be delayed until after a thorough review of the environmental and comprehensive plan applications and deny the ordinance until after completion of the DRI process; indicated concern about the chemicals in the water and impacts on the land and environment, the lack of a wildlife corridor through the Hamlets as well as the potential for additional costs to the public; commented on the need to avoid inconsistencies with the interlocal agreement; and

reiterated action on the ordinance should be held in abeyance until after the DRI process has been completed.

John Knight pointed out the alternatives, mow all of the trees down and create five acre ranchettes or allow Kitson to move forward, and stated at least Mr. Kitson is trying to preserve land and wildlife.

Carl Veaux stated the zoning overlay district document will very specific; as of this time, it is only a conceptual plan because it has not gone through the DRI process; Kitson has indicated that the overlay zoning is not economically feasible without additional concessions; he has back tracked on the granny rights; and urged action on the ordinance be tabled. Mr. Veaux suggested Board Members walk the property and view the wildlife and habitats including Florida panthers and questioned the funding source for the road infrastructure costs.

Attorney Geri Waksler commented in support of the granny flats or mother-in-law apartments concept as affordable housing for the workforce to reside within the community and reduce road impacts and advised road impacts will be reviewed as part of the DRI process.

**COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS.
Motion Carried 5:0.**

Chairman Moore requested additional comments from Messrs Cookingham and Kitson and there were none.

Commissioner DeBoer stated a policy decision needs to be made on this issue and suggested scheduling an independent discussion. **Commissioner DeBoer** questioned the lack of a minimum lot size in the Community Center, lot coverage based on lot size including setbacks and water retention; and indicated concern about the vagueness.

Commissioner Devos suggested clarification of the 1,000 square feet minimum lot size. **Commissioner DeBoer** stated the minimum square footage is too small for development. Attorney Ernie Cox stated the general concept is to provide open green space instead of yard space and promote flexibility for houses or mixed uses on small lots e.g. 50 x 20 for a small home or two-story single family house that can be delivered for a reasonable price. **Commissioner DeBoer** stated Mr. Cox's answer is general and expressed concern about the minimum lot sizes for construction purposes.

Attorney Cox explained development of small lots affords the ability to construct a small business, e.g. coffee shop, on a corner lot. **Commissioner DeBoer** acknowledged the green space preservation and buffering requirements and stated a minimum lot threshold should be established. Attorney Cox stated a low threshold might be created for business land ownership of a small commercial or mixed use. **Commissioner DeBoer** reiterated the need to establish a low threshold. Attorney Cox commented on small towns and small town business development on 20 x 50 feet lots and stated the business owner might be able to own the land instead of leasing it as a tenant. Attorney Cox offered to consult with group members on changing the minimum lot size of 1,000 square feet.

Commissioner DeBoer stated architectural standards have not been addressed and referred to the Economic Impact Statement (EIS) on the monetary impact not being significant as enumerated in the second impact. Mr. Cookingham stated the monetary impact will not be significant. **Commissioner DeBoer** disagreed with the statement on the representative type of government for the development district as listed in the EIS. Mr. Cox stated he has not seen the EIS. **Commissioner DeBoer** opposed that statement in the EIS.

Commissioner Devos expressed concern about the 1,000 square feet minimum lot size versus 5,000 minimum size required in other areas of the County; commented on

cluster homes on 5,000 square feet lot sizes; and stated a 1,400 square feet home cannot be constructed on a 1,000 square feet lot.

Commissioner Devos indicated the County has made many concessions for this project and the minimum lot size should be 5,000 square feet. Attorney Cox stated about 400 citizens participated in the charrette process and the need for this flexibility was identified as part of the process; a 1,000 square feet lot in the Hamlet would allow a footprint of a 700 square feet unit; and a 1,000 square feet lot could be 22 x 45 feet.

Commissioner Devos pointed out the side yard set backs and road frontage set backs would require smaller dwellings or multifamily units. Attorney Cox reiterated the small lot concept provides flexibility; and he lives on a 50 x 120 feet lot. **Commissioner Devos** stated she would vote against the ordinance because of the 1,000 square feet minimum lot size. Attorney Cox asked Mr. Cookingham to show an example of the Town Center concept. **Commissioner DeBoer** pointed out the house that Attorney Cox lives in is located on a 6,000 square feet lot. Attorney Cox referred to the Town Center residential slide that appeared to be a town house type of structure. Attorney Cox offered to speak with design personnel to possibly accommodate a larger minimum lot size.

Commissioner Devos referred to the single family residential set backs and encroachments and commented on the need for additional discussion on the minimum lot size to avoid substandard lots in this community. **Commissioner Devos** advised a density unit off of a lot of 1,000 square feet cannot be purchased.

Commissioner Devos commented in support of the preservation of 74,000 acres as proposed by Kitson; opined the water debate was very successful for the County; expressed concern about the waiver of the transfer of density units; shared environmental

concerns; and stated focus should be on the 74,000 acres of preservation. **Commissioner Devos** stated her home construction includes a possible mother-in-law apartment for family members and friends to visit and she would have supported the additional granny flats or mother-in-law apartments; and commented in support of moving forward after resolution of the 1,000 square feet minimum lot size.

Commissioner DeBoer suggested a break to allow Kitson to resolve 1,000 square feet minimum lot size concerns.

Commissioner Cummings objected to the statement that granny flats would not have any impacts because they do create impacts and they must be considered as another development unit; stated an increase to the number of people per unit would increase impacts; a granny flat might fit on a 1,000 square feet lot; and the EIS reflected the need for 50% of the residents' agreement to impose standards.

Commissioner Cummings recalled small minimum lots to provide condominiums to secure one ownership of a multifamily structure. Mr. Kitson expressed no awareness of **Commissioner Cummings'** recollection. Commissioner Cummings stated most of his remaining comments relate to the overall development.

Chairman Moore stated more discussion is needed on the minimum lot size and appointed **Commissioner DeBoer** for negotiations. **Commissioner DeBoer** stated it would not be acceptable as this is a quasi-judicial proceeding. **Chairman Moore** suggested this matter be brought back after lunch. Attorney Cox requested a 10 minute recess.

RECESS: 10:35 AM - 10:56 AM

Attorney Cox stated a desire exists to create a town community; acknowledged Board concerns; compromise calculations have been redone to provide affordable detached single family homes on a minimum lot size of

3,000 square feet, e.g. 30 x 100 feet, 35 x 85 feet, or 40 x 75 feet; proposed all detached single family homes require a minimum of 3,000 square feet lots and 1,000 square feet minimum lots in the Town Center. **Commissioner Devos** expressed support for the revision to 3,000 minimum lot sizes for detached single family homes and the 1,000 square feet minimum size in the Town Center.

COMMISSIONER DEBOER MOVED TO APPROVE REVISIONS TO THE PROPOSED ORDINANCE TO REQUIRE 3,000 SQUARE FEET MINIMUM LOT SIZE FOR DETACHED SINGLE FAMILY HOMES AND 1,000 SQUARE FEET MINIMUM LOT SIZE IN THE TOWN CENTER, SECONDED BY COMMISSIONER DEVOS.
Motion Carried 5:0.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE #2006-058, AS REVISED, SECONDED BY COMMISSIONER DEVOS.

Commissioner Cummings indicated opposition because it is premature and the lack of zoning changes. **Commissioner DeBoer** stated the integrity of the quasi-judicial proceeding has been held and pointed out three people were not sworn in.

Motion Carried 4:1. Commissioner Cummings opposing.

2. **Z-05-11-79-TDU (Quasi-Judicial) Commission District I**
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agricultural Estates (AE) to Planned Development (PD), for property located at 25366 Tangerine Avenue; containing 9.52± acres, in the Port Charlotte area; Commission District I; Petition No. Z-05-11-79-TDU; applicant Landshore of Port Charlotte, LLC.

(Deputy Clerk Gail Manley administered the oath to prospective witnesses. Chairman Moore polled the Board for ex parte disclosures. Commissioners D'Aprile and DeBoer and Chairman Moore noted prior communications.)

Jie Shao presented the petition on the zoning change as requested in Z-05-11-79-TDU filed by Landshore of Port Charlotte, LLC to increase density to 47 units and recommended approval along with the P&Z Board with conditions; and the applicant's agent has indicated acceptance of all conditions including F.

Attorney Michael Haymans advised John Swing is present; appeared on behalf of the applicant in support of the petition; accepted all conditions; and requested approval.

**COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.
Motion Carried 5:0.**

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE #2006-059, SECONDED BY COMMISSIONER D'APRILE.

Commissioner D'Aprile suggested changing the name of Tangerine Avenue on the east side since it is disconnected by I-75. Attorney Haymans agreed and requested direction on who to contact about the name change. **Chairman Moore** suggested James Dossett.
Motion Carried 5:0.

3. **NOPC-06-02-08 (Quasi-Judicial) Commission District I** Post Falls Management Associates, LLC, Will-Ridge Associates, LLC., and Ronald Benderson 1995 Trust are requesting to amend the Harborview Development of Regional Impact (DRI) Development Order. These changes include the addition of 106± acres to the existing Harborview Development of Regional Impact; revisions to Map H; the timing of dedication of Saltwater Marsh to the State of Florida and the reduction in approved commercial uses (65,588 sq. ft.) and office/medical (54,000 sq. ft). The property is located east of Interstate 75, south of Madras Court and Mauritania Road, west of DeSoto Canal and north of the Peace River; Sections 21 and 28, Township 40 South, Range 23 East, in Punta Gorda, Florida; a complete legal description is on file.

(Deputy Clerk Gail Manley administered the oath to prospective witnesses. Chairman Moore polled the Board for ex parte communications. All Board Members indicated prior communications with the applicants.)

Jan Rogers corrected the requested motion and distributed a revised page for a recommendation for approval. Ms. Rogers presented the petition; explained the resolution was revised to be consistent with the original development order with regard to the 100 feet wildlife sector; and recommended approval.

Attorney Waksler appeared on behalf of the applicants in support of the petition to incorporate an additional 106 acres into the DRI located north and south of Harborview Road. Attorney Waksler stated now the entire 514 acres are under one unified control; existing entitlements will remain with the original DRI and with the 106 additional acres so a full impact analysis and study will be done on the entire DRI in lieu of the 480 original acres; P&Z recommended approval; and requested approval.

**COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.
Motion Carried 5:0.**

Commissioner D'Aprile opined the development will have a heavy impact on Harborview Road. Attorney Waksler advised a traffic analysis will be performed and additional improvements can be made to Luther Road and reconfiguration of the Rio de Janeiro intersection under the substantial deviation request.

COMMISSIONER DEVOS MOVED TO APPROVE RESOLUTION #2006-093, SECONDED BY COMMISSIONER CUMMINGS.

Chairman Moore recalled concern about the buffer from the salt marsh when the petition was previously before the Board. Attorney Waksler stated existing buffering to the salt marsh will be retained on the existing DRI and additional buffering will be identified after completion of the data analysis on the 106 acres.

Motion Carried 5:0.

4. **PA-06-03-22-LS (Legislative) Commission District I** Pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Low Density Residential, Commercial Center and Preservation to Mixed Use Development of Regional Impact [DRI] for property located east of Interstate 75, south of Madras Court and Mauritania Road, west of DeSoto Canal, and north of Peace River, containing 106± acres, in the Punta Gorda area; Commission District I; Petition No. PA-06-03-20-LS; applicant David Baldauf, Benderson Development Company, LLC.

Ms. Rogers presented the petition filed by Benderson Development, LLC to address multiple land use designations and incorporate them into a unified DRI plan for a mixed use development; the plan amendment is consistent with the Comprehensive Plan; and recommended approval of the transmittal.

Attorney Waksler appeared on behalf of the applicant in support of the petition and requested approval.

COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 5:0.

COMMISSIONER DEVOS MOVED TO APPROVE TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) FOR AN OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 5:0.

5. **PA-06-02-23 (Legislative) Commission District III** An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopting a Small Scale Future Land Use Map amendment to the Charlotte County Comprehensive Plan from Low Density Residential to Preservation for a portion of the property located at 3420 Rain Lily Lane;

containing 2.97± acres, in the Englewood area; Commission District III; Petition No. PA-06-02-23; applicant Charlotte County Board of County Commissioners.

Jacqlyn Smith requested consolidation of the plan amendment and zoning petitions. (Deputy Clerk Gail Manley administered the oath to prospective witnesses. Chairman Moore stated ex parte communications would be requested later for the zoning petition.) Ms. Smith presented the petitions to amend the Future Land Use Map and Zoning Atlas and requested approval.

Andy Dodd stated this petition is a follow-up to the transfer of density from the 2.97 acres of wetlands on the site and the balance of the site should retain the RSF-3.5 designation for development. Mr. Dodd stated the intent is to develop the remaining less than two acre site as a single family residence.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS.
Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE #2006-060, SECONDED BY COMMISSIONER DEBOER.
Motion Carried 5:0.**

6. Z-06-02-24 (Quasi-Judicial) Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single Family-5 (RSF-5) to Environmentally Sensitive (ES), for a portion of the property located at 3420 Rain Lily Lane; containing 2.97± acres, in the Englewood area; Commission District III; Petition No. Z-06-02-24; applicant Charlotte County Board of County Commissioners.

(Chairman Moore polled the Board for ex parte communications and there none.) Chairman Moore

requested any additional staff presentation. Ms. Smith advised there was no additional presentation.

COMMISSIONER DEVOS MOVED TO CLOSE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE #2006-061, SECONDED BY COMMISSIONER DEVOS.

Motion Carried 5:0.

Chairman Moore questioned the legality of public input procedures for the second of a consolidated hearing on two petitions. Attorney Browne recommended one public hearing and one presentation on the petitions. **Commissioner Devos** pointed out the oath is administered to additional citizens when they were not present or did not anticipate making any comments when petitions were originally called. **Commissioner DeBoer** commented on the difference to present evidence in legislative versus quasi-judicial proceedings. **Commissioners DeBoer and Devos** expressed a preference to bifurcate the proceedings.

7. **PV-06-02-01 (Legislative) Commission District IV** Wilmington Retail, Ltd., has applied for a Plat Vacation for a portion of the east side of Kevitt Boulevard, a portion of Englewood Road, and a portion of the west side of Wilmington Boulevard, as recorded in Plat Book 10, Pages 1-A through 1-Z-33, in the Public Records of Charlotte County, Florida. The request is for an 80 foot strip of land on three sides of Tract E, consisting of 6.668± acres, and is located in Section 5, Township 41 South, Range 26 East, Commission District IV. A complete legal description is on file.

James Dossett presented the petition that originated as a street vacation and evolved into a plat vacation for three 80 foot strips of land; explained applicant has requested vacation of about 6.6 acres; staff reviewed the petition and notified all utilities; Sprint requires an easement; explained the purpose of the vacation and staff's recommendation for approval;

this is the beginning of service roads for a commercial node area including a proposed Target and out parcels; approval of the petition will convert a maintenance problem to private commercial development on 6.6 acres; and the vacated land will be placed back on the tax rolls.

Mr. Dossett stated the applicant has purchased the rights to the property that reverted back to General Development Corporation (GDC) and recommended approval based on conditions requiring a Sprint easement and the Public Works road connection. **Commissioner Devos** questioned the mode of travel on these roadways and location of the school. Mr. Dossett pointed out the school location on the GIS map. **Commissioner Devos** noted two-way traffic on both sides of the median and questioned converting 22 feet on either side of the median into two-lane traffic. Attorney Waksler appeared on behalf of the applicant in support of the vacation; advised the park strips are shown on the plat and dedications are to the County if not used for public purposes; reverter rights are held by the applicant not GDC; the intent is to develop the site for commercial center uses; and it is premature to assume that Target will be developed on the site. Attorney Waksler explained the vacation will provide a more appropriate right of way and the lands will be placed back on the tax roll; applicant has agreed to construct sidewalks to the elementary school and relocate the right of way to allow public access road right of way; this will increase safety and tax roll revenues; noted staff and P&Z recommend approval; and requested approval.

Commissioner Devos requested clarification regarding location of the access road. Attorney Waksler explained relocation, more internal on the site and parallel to McCall Road, will provide a better traffic flow to and from the site.

Bruce Pomeroy pointed out the access road and Kevitt and Wilmington Boulevards; expressed uncertainty regarding future development of the area as a

commercial area even though there is signage for a future Home Depot; the SR 776 Corridor Study reflected this area as a commercial node; suggested providing more buffering adjacent to the access road and Home Depot as well as delaying action on the vacation until more specifics have been identified for future development in the area.

Mike Hadsell recalled meetings with staff during which there were no indications of road vacations in this area; requested funding sources for construction and maintenance of the sidewalks; expressed concern about traffic safety hazards at Wilmington and Winchester and Kevitt Boulevard intersections; stated traffic lights need to be installed at both intersections; intersection issues may force drivers into residential areas; and requested action be delayed to address safety concerns, sidewalks, and paving that is scheduled to be done soon.

Jack Donkel opposed vacating property that is not for a public purpose; referred to the handout and the need to construct businesses on the adjacent service road that is used as a buffer; opposed vacating service roads, green belt areas, and public property; stated Charlotte County has worked 11 years to make access roads useful; and reiterated opposition to vacating access roads for private development purposes.

Bob Asbury expressed opposition to the vacation since the access road would be relocated through the proposed shopping center, pointed out retail businesses would be south of the access road, and this would create more traffic hazards.

Attorney Robert H. Berntsson appeared on behalf of the developer on the north side of Grouse Avenue for a residential villa duplex project; expressed concern about truck traffic coming out of the commercial area at the intersection of the residential development; noted originally this was a plat vacation in lieu of a street vacation; suggested the County's interest in the park land not be given up with a reverter clause;

suggested the road connecting Kevitt to Wilmington be a public road or an internal access driveway; stated a number of public right of way issues remain; and a developer's agreement should be done.

**COMMISSIONER DEVOS MOVED TO APPROVE CLOSE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.
Motion Carried 5:0.**

Commissioner DeBoer stated it is the wrong time for this vacation; commented on the need to establish a development plan for the area prior to approving any more vacations including possible four-laning of Gulfstream and Wilmington Boulevard with appropriate right of ways.

Commissioner D'Aprile expressed concern about the service road relocation into the residential neighborhood. Mr. Dossett commented on the internal service roads behind Hess and Sonic near Jacaranda Boulevard in Venice, pointed out access to the residential neighborhood from the proposed relocation, and commented on traffic flow concerns. **Commissioner D'Aprile** requested clarification on the reverter for the park strips. Attorney Waksler explained the land reverted back to GDC unless it was used for public purpose and GDC subsequently sold its rights to the applicant. **Commissioner D'Aprile** questioned the value on the 6.6 acres. Mr. Dossett stated the developer received credits for the parkland and open space area. **Commissioner D'Aprile** requested research be performed to ascertain the value of the 6.6 acres and stated he is not convinced the vacation should be approved due to outstanding concerns. **Commissioner Devos** stated she was not initially in favor of the vacation but relocation of the access road more internal on the site will get some traffic off of SR 776 and provide more safety at the intersection. **Commissioner D'Aprile** reiterated opposition.

Commissioner Cummings opined relocation of the access road will provide an end destination and more safety at the SR 776 intersection; recalled the area was

identified as a commercial node that will reduce trip generation for the residential area; indicated sidewalks are a public benefit; acknowledged the potential for four-laning at residential build out in the area and future intersection improvements and necessary rights of way; and explained this will enhance the proposed commercial node whether it is done as proposed or as part of a development plan.

Chairman Moore requested the number of potential future lanes in the area. Mr. Dossett pointed out 85 feet of right of way would be available for four lanes and it is similar on the Kevitt Boulevard side. **Chairman Moore** expressed disappointment about the packet information; commented on consensus building; and agreed with **Commissioner DeBoer** on the need to establish a development plan for the area including traffic flow patterns. Attorney Waksler suggested approving the vacation contingent upon the applicant bringing back a final site plan for approval by the Board showing layouts for roadways, structures, and traffic signals and pointed out the resolution would not be effective until approval of the site plan.

Commissioner DeBoer suggested staff research traffic flows in the area, changes regarding Kevitt Boulevard, and accesses to the shopping center, Wilmington Boulevard, and SR 776. **Commissioner DeBoer** pointed out three Board Members agree about the traffic pattern change onto Wilmington instead of SR 776. **Commissioner DeBoer** expressed a preference to have traffic studies performed on the entire area prior to approval of any vacation. **Commissioner Devos** invited the public to view the access road at Harbor Boulevard intersection. **Chairman Moore** questioned the time sensitivity for approval of the vacation. Attorney Waksler offered to consult with Public Works but applicant has owned the property for some time and wants to develop the site.

COMMISSIONER DEVOS MOVED TO CONTINUE PETITION PV-06-02-01 TO THE JULY LAND USE PUBLIC HEARINGS, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 5:0.

8. **PV 06-03-03 (Legislative) Commission District I** Charlotte ES Properties, LLC has applied for a plat vacation to vacate a portion of Port Charlotte Subdivision Section 20, as recorded in Plat Book 5, Pages 10A through 10F, that portion being a portion of Lots 2, 6, 7, 8 and 9 and all of Lots 3, 4, and 5 of Block 2255. The site consists of 1.04± acres, located in Section 13, Township 40 South, Range 22 East in Charlotte County Commission District I.

Mr. Dossett presented the petition to vacate seven lots identified in the survey in the packet; reported all utilities were notified and Charlotte County Utilities (CCU) will require an easement; the vacation will not impact the stormwater utility on the site and it may be relocated in the future; staff recommended denial of the petition at the P&Z hearing because partial lots may not be vacated; the applicant has requested vacation of the entire lots; and the only remaining condition is the CCU easement. **Chairman Moore** requested verification of the area to be vacated. Mr. Dossett stated the survey indicates the correct vacation area. Attorney Haymans explained the applicant's surveyors enlarged the vacation area to include the entire lots as stated; requested vacation of the block south of VanBuren Avenue e.g. all of Lots 6, 7, 8, 9, 2, 3, 4, and 5 not utilized by the County; the applicant will be providing easements to Florida Power & Light Company and CCU; applicant's development intent is to construct a surgery center on the north portion and another surgery facility in the future on the south portion of the site.

COMMISSIONER DEVOS MOVED TO CLOSE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

Commissioner D'Aprile questioned the relationship of the new surgery center with the existing center. Attorney Haymans stated some of the doctors in the existing surgery center desire to construct a new

surgery center and the facilities will be separately owned. **Commissioner DeBoer** suggested vacating McCaslin Court that is in close proximity to the Comedy Club. Attorney Haymans commented on the drainage area and stated McCaslin Court is necessary for access purposes.

COMMISSIONER DEVOS MOVED TO APPROVE RESOLUTION #2006-094, SECONDED BY COMMISSIONER DEBOER.
Motion Carried 5:0.

MEETING ADJOURNED: 1:10 PM.

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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