

BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS

APRIL 26, 2007

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Loftus, Commissioner Duffy, Commissioner Cummings, Commissioner D'Aprile, and Commissioner Moore. Also in attendance were County Administrator Loucks, Assistant County Attorney Browne, Administrative Assistant Hunter, and Deputy Clerk Mitchell. The following members were absent: None. The meeting was called to order at 9:00 AM, followed by the Pledge of Allegiance.

A. PLANNING AND ZONING AGENDA (Proof of Publication was in Order.)

1. EAR Comprehensive Plan Amendments Legislative Pursuant to 163.3181(1), Florida Statutes, providing for public participation in the comprehensive planning process for the proposed Evaluation and Appraisal Report (EAR) changes and pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs et al, an adopted Large Scale Plan Amendment to amend the 1997-2010 Comprehensive Plan to update text, maps, diagrams, and policies otherwise reflecting the changes that were the result of the 2003 Evaluation and Appraisal Report (EAR) process, and the March 2, 2007 ORC report provided by DCA; Specifically, amended elements or sections of elements shall include: Future Land Use, Transportation, Natural Resources and Coastal Planning, Infrastructure: Stormwater, Solid Waste, Aquifer Recharge, Potable Water and Sanitary Sewer, Recreation and Open Space, Housing, Intergovernmental Coordination, Capital Improvements, Historic Preservation, Community Facilities and Services. Applicant: Charlotte County Board of County Commissioners.

Tom Scott reviewed his summation which addressed DCA's seven objections and staff's revisions to address those objections in the proposed text amendments as detailed in the packet material, and stated both staff and the Planning and Zoning (P&Z) Board recommend adoption of the proposed ordinance and transmittal of these amendments to DCA.

Mike Konefal updated the Board on Senate Bill 360, its financial impacts to the County's budget process, and the issue of Level of Service regarding the County's road infrastructure due to State mandates that will not be funded by the State. Mr. Konefal stated SB 360 has four components: Comprehensive Plan (Comp Plan) EAR updates must be completed; pass a proportional fair share ordinance which was done in 2006; by the end of 2007 the County must have a financially feasible Capital Improvements Element; and by the end of 2008 school concurrency. Mr. Konefal clarified that meant all infrastructure items (roadways, water, sewer, parks, drainage and solid waste) have to be studied this year and made financially feasible over a five-year period; if the County can't finance them the County will be subject to the State withholding transfer payments and having the County's Comp Plan put on hold; this requirement applies to all Florida counties and cities; and advised the State has mandated this requirement but has not provided any funding to meet it.

**Commissioner Cummings** summarized the consequences of not maintaining the level of service is no building permits, no changes to the Comp Plan, and the State takes revenue-sharing away. Mr. Konefal said correct.

**Commissioner Cummings** asked how much money were they talking about being withheld by the State if we don't maintain the required level of service.

County Administrator Loucks stated the transfer payments referred to could amount to tens of millions of dollars, the issue is the roads on the Roadway Level of Service map, in the five year Capital Improvements Program they have to show they can address roads that fall below the approved level of service, the County has to be careful in deciding to raise roads to level of service C because they could inadvertently be creating a building moratorium if the County can't afford to build roads, and noted the State isn't even funding their own roads so if the County permits building that impacts a state road then the County will have to foot the bill and that can really add up.

(Board and staff discussion continued regarding SB 360, the impacts to the County's level of service as indicated on the map, and the fact that the State has accepted a level of service D as the statewide service level.)

Misty Nichols, Executive Director Gasparilla Island Conservation and Improvement Association, opined the Comp Plan is one of the best in the State, hurricane evacuation from West County is very important, and voiced support for having development pay to maintain a level C out in the Cape Haze and Gasparilla areas.

Marvin Medintz President of the Cape Haze POA distributed and reviewed his handout which centered on the need to strengthen hurricane evacuation protection by keeping the roads at level C.

Percy Medintz addressed DCA Objections 1 and 4 as detailed in her handout.

Richard Flint stated he's a resident of Placida Harbor, commented on the infrastructure problems in West County resulting from continued growth, opined the Comp Plan needs to do much more, there needs to be a moratorium on new building out there, they need to look at concurrency, and they need to raise impact fees.

Chuck DeSanti Senior Managing Partner for Kitson & Partners addressed the EAR issue and specifically DCA Objections 2 and 3, and requested Policy 8.1.1 be proposed to simply read that the County will change the level of service 'C' to level of service 'D' on all arterial and collector roads within Charlotte County.

Syd Kitson commented on previous discussions comparing Babcock Ranch to the City of Punta Gorda and the difference pre-planning will make in Babcock Ranch regarding responsible growth.

Ben Circa stated he resides and works in Cape Haze, and he doesn't see the concern regarding hurricane evacuation since most of the seasonal people are not here.

John McCurley read his prepared statement regarding negative impacts to the quality of life in the Cape Haze area, agreed new development should pay its own way because development without control will be expense to everyone, and asked the Board to renew the people's trust.

Attorney Robert Berntsson said this is the end of a very long process, staff has addressed all of DCA's concerns, and asked the Board to adopt the proposed changes.

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

Motion Carried 5:0.

RECESS: 10:43 AM - 10:57 AM

(Assistant County Administrator Baltz replaced County Administrator Loucks for this portion of the meeting.)

Chairman Loftus asked the Board to discuss Mr. DeSanti's request to lower the urban service area to level of service D.

Commissioner Cummings stated he supports maintaining a level of service C in the rural areas and a level of service D in urban service areas.

Thomas O'Kane agreed if the area around Babcock is in the urban service area then they could consider changing the level of service, stated CR 74 and most of SR 31 are in rural areas even after Babcock gets developed then they should stay at a level of service C. Mr. Konefal clarified there is an urban service area around the entire boundary of the Babcock Ranch Overlay District.

Commissioner Moore asked if Kitson's commitment to roadway maintenance in Babcock is dependent on what the Board does regarding level of service. Mr. Konefal clarified that the Babcock development agreement contains commitments that the roads will be maintained at a service level of C.

Commissioner Cummings commented on why he felt rural roads need to remain a level of service C and infill area roads should be reduced to a level of service D.

Mr. DeSanti said they feel very strongly about this issue, they will continue working closely with staff as mandated in the development agreement, and reiterated Kitson will keep all the financial commitments they've made.

Mr. Kitson concurred they will build the roads but as other developers come in those developers will pay their fair share and Kitson will get reimbursed.

COMMISSIONER MOORE MOVED TO APPROVE CHANGING THE LEVEL OF SERVICE ON THE ROADS SHOWN ON THE LEVEL OF SERVICE MAP TO LEVEL D NOT C INCLUDING BERMONT ROAD AND SR 31 AS PART OF THAT, SECONDED BY COMMISSIONER D'APRILE.

Commissioner Cummings said level C and D are very close in appearance but there is a cost difference and he has a real problem dropping it countywide.

Commissioner Duffy said she felt they don't have a choice based on SB 360 because they just don't have the money, and she supported a level D.

Chairman Loftus asked staff to address moving Placida Road back to a level C later on due to evacuation. Mr. O'Kane said okay.

Motion Carried 4:1. Commissioner Cummings opposing.

Mr. Konefal asked if he was correct in understanding that the entire County would now be Level of Service D.

Chairman Loftus said that was right.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-020 FOR THE EAR COMPREHENSIVE PLAN AMENDMENTS, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:1. Commissioner Cummings opposing.

2. PA-05-10-67-LS Legislative Commission District IV Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Low Density Residential and Commercial Corridor to U.S. 41 Overlay Mixed Use, for properties located Southeast of Murdock Circle, Southwest of Tamiami Trail (U.S. 41), and Northwest of Toledo Blade Boulevard; containing 18.17± acres, in the Port Charlotte area; Commission District IV; Petition No. PA-05-10-67-LS; applicant: the Charlotte County Board of County Commissioners.

3. Z-06-07-51 Quasi-Judicial Commission District IV  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family-3.5 (RSF 3.5) to Commercial General (CG), for property located at 19112 and 19120 Cochran Boulevard (formerly known as Toledo Blade Boulevard), containing 0.46+ acres more or less, in the Port Charlotte area; Commission District IV; Petition No. Z-06-07-51; applicant: the Charlotte County Board of County Commissioners.

(Deputy Clerk Mitchell administered the oath to prospective witnesses.)

Jie Shao explained Petition PA-05-10-67-LS requests a large scale plan amendment from Low Density Residential and Commercial Corridor to U.S. 41 Overlay Mixed Use, the companion rezoning Petition Z-06-07-51 requests a rezoning from Residential Single-Family-3.5 (RSF-3.5) to Commercial General (CG), reviewed the packet materials, stated staff has addressed DCA's objections and comments as detailed in the revised staff report, and both staff and the P&Z Board recommend approval of the plan amendment and rezoning.

Gwendalyn Johnson and Wendy Finley thanked the Board for allowing them to stay in business and voiced support for the proposals.

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

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-021 FOR PETITION PA-05-10-67-LS, SECONDED BY COMMISSIONER MOORE.**  
Motion Carried 5:0.

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-022 FOR PETITION Z-06-07-51, SECONDED BY COMMISSIONER MOORE.**

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

Motion Carried 5:0.

**RECESS: 12:00 PM - 1:01 PM**

(Administrative Assistant Stoner replaced Administrative Assistant Hunter for the remainder of the meeting and County Administrator Loucks replaced Assistant County Administrator Baltz for this portion of the meeting.) (Commissioner Cummings was not present for this portion of the meeting.)

4. PA-06-07-42 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 Commercial Corridor, for property located south and east of Wall Street, west of Ainger Creek and north of South McCall Rd.; Containing 3.03± acres; Commission District III; Petition No. PA-06-07-42; applicant: Robert L. McGuire.
  
5. Z-06-07-43 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family 2.5 (RSF-2.5) to Commercial General (CG), for property located south and east of Wall Street, west of Ainger Creek and north of South McCall Rd.; Containing 3.03± acres; Commission District III; Petition No. PA-06-07-43; applicant: Robert L. McGuire.

(Deputy Clerk Mitchell administered the oath to prospective witnesses.) (Chairman Loftus polled the Board for ex-parte disclosures. Commissioner Moore said yes and he would submit the proper form.)

Martina Kuche explained Petition PA-06-07-42 requests a small scale land use amendment from Low Density Residential to Commercial Corridor; the companion rezoning Petition Z-06-07-43 requests a rezoning from Residential Single-Family 2.5 (RSF-2.5) to Commercial General (CG); reviewed the packet materials; recalled the Board requested staff bring back a plan for transitioning from strip development to that of commercial nodes which will take place mid-year; stated it may be appropriate to consider these properties for planned development or mixed use in the future but without a specified use for the subject site staff felt it premature to allow the proposed change and did not feel the applicant had provided suitable justification to the

contrary; the P&Z Board recommended approval of both the plan amendment and the rezoning; and staff recommends denial of both. (Commissioner Cummings arrived during this presentation and was present for the remainder of the meeting.)

Attorney Michael Haymans spoke on behalf of the applicant Ron McGuire as well as the property owners James Christman and Joe Caminiti in support of the plan amendment and rezoning petitions; presented a letter of support from the property owners to the north James and Millicent Dwyer; questioned Mr. Caminiti; asked Mr. Christman to give his brief PowerPoint presentation; and opined the time was right for a change because this property was not appropriate for residential.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

Chairman Loftus noted that Commissioner Cummings was not present at the beginning of this quasi-judicial matter, and asked if he had any ex-parte. Commissioner Cummings responded no.

Commissioner Moore said although Attorney Haymans makes some good points it is hard not to support staff's efforts and recommendations.

Chairman Loftus said the community has been trying to go in the direction of mixed use, and he was disappointed the commercial nodes hadn't been established yet because that's what's need out there.

Commissioner Duffy stated from what she's heard she didn't feel the property was suitable for residential.

Commissioner Cummings asked what Ms. Kuche was currently working on.

Ms. Kuche clarified Attorney Haymans was correct in that the corridor study was completed in 2003, agreed it would have been better if this had moved forward more quickly, stated this will be a tremendous undertaking involving the Comp Plan and the land development code that will need to be significantly altered to direct how they want this corridor to look, and she was 95%

certain this area will become mixed use which is what they will be reviewing within the next several months.

Ms. Kuche clarified what they're suggesting today is a straight rezoning to Commercial Corridor and Commercial General (CG), all the uses causing concerns or challenges to the residents could be made worse if they simply change a zoning and land use without a development plan in place, it was her understanding there were development patterns occurring right now that are not to the benefit of property owners who live around it, this property and the properties that surround it will need to have a mixture of uses, opined if these requested changes are approved today the County will face a lot of unknowns, reiterated the implementation of the corridor study will be coming to the Board soon, asked the Board to be careful with these petitions and those that come before the Board prior to implementation of the study because it's easier to do it right the first time than change it after the fact, and thanked the Board for allowing her to have more comment on this issue.

**Chairman Loftus** thanked her for her comments.

**Commissioner Duffy** said she needed some clarification on what staff was really asking for.

Ms. Kuche clarified the direction of the Board from 2003 was that a mixture of uses is intended for the node, two of the alternatives to do that is to utilize what they currently have which is called the General Mixed Use FLUM and either a PD zoning or make this similar to U.S. 41 which would be an overlay thereby leaving the zoning the same but allowing differences between what currently is within the zoning code, i.e., you may be allowed to have commercial with a residential FLUM or visa versa.

Attorney Browne pointed out that's not what is before the Board today, only the proposed petition is before the Board and that is to rezone to CG.

**COMMISSIONER CUMMINGS MOVED TO DENY PETITION PA-06-07-42, SECONDED BY CHAIRMAN LOFTUS.**

**Commissioner Duffy** asked his reason for denial.

**Commissioner Cummings** responded it's the accumulation of what's in the staff report and the testimony heard today, the crux of it is they have a broader planning effort going on, this specific request would impede their ability to do the best job with that broader plan because it is allowing uses without having the conditions they are hoping to create, and since they're in the legislative side they have the discretion to do that at this point.

**Chairman Loftus** stated he wants to see the corridor plan for S.R. 776 in front of the Board within the next three months, it's imperative they don't have another U.S. 41 because this has been very tough to clean up, and added he's heard from the residents out there that that's what they want so he just could not go along with this petition as it is.

**Commissioner Duffy** asked if staff was confident they could have the plan back to them within three months Ms. Kuche said yes.

**Commissioner Duffy** said with that understanding she is okay with staff's recommendation.

Ms. Kuche summarized staff was asking the Board to give them the needed time to come up with a plan that is going to be effective both in what the Board wants to accomplish and in agreement with what the people want, it has been made her top priority, they don't want to leave it residential or necessarily make it commercial, and they were looking at making this area a mixture of uses and the best place and way to locate them.

Attorney Haymans asked for a one month continuance to allow them to work with staff to address some of the Board's questions.

Attorney Browne asked what's going to change in one month. Attorney Haymans said it gives staff time to work on the new plan and gives him the opportunity to talk with each of the Board members about their individual concerns.

**Commissioner Cummings** noted that when this comes back staff will be the applicant. Ms. Kuche agreed.

**Commissioner Cummings** said he's not seeing a benefit to bringing this back one month from now.

Chairman Loftus said his understanding is the applicant wants to work with staff and hopefully this will come back as a PD.

Commissioner Moore said he's okay with a continuance.

Ms. Kuche stated one month wasn't enough time.

Chairman Loftus said he now understands the applicant is willing to make it a two month continuance instead.

Commissioner Cummings withdrew his motion. Chairman Loftus withdrew his second.

Mr. Loucks requested a few minutes to update the Board on the new developments regarding property tax reform as detailed in his handouts.

Staff indicated a motion to continue was needed.

**COMMISSIONER MOORE MOVED TO CONTINUE PETITIONS PA-06-07-42 AND Z-06-07-43 FOR TWO MONTHS, SECONDED BY COMMISSIONER DUFFY.  
Motion Carried 5:0.**

6. PA-05-09-62-LS Legislative Commission District II  
Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from High Density Residential to Low Density Residential, for property located northeast of Taylor Road and west of I-75, containing 69.8± acres, in the Punta Gorda area; Commission District II; applicant Charlotte County Board of County Commissioners.

Inga Williams explained this petition was initiated by staff to correct a use-inconsistency, the zoning designation of the subject site's 15 platted parcels is Agricultural Estates but the Future Land Use Map (FLUM) designation is High Density Residential which staff is proposing be amended to Low Density Residential, DCA had no objections, and staff requests approval.

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

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-023 FOR PETITION PA-05-09-62-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

7. PA-05-11-72-LS Legislative Commission District II Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Commercial Center to Low Intensity Industrial, for property located north of U.S. 17 (Duncan Road), east of Florida Street, south of Marion Avenue, and west of I-75, containing 10.48± acres; in the Punta Gorda area; Commission District II; applicant Charlotte County Board of County Commissioners.

Ms. Williams explained this petition requests a large scale land use amendment from Commercial Center to Low Intensity Industrial; reviewed the staff report and analysis in the packet material; stated DCA issued two objections regarding the lack of utility capacity and the need for an environmental assessment and both issues have been addressed as indicated in the revised staff report; and both the P&Z Board and staff recommend approval.

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-024 FOR PETITION PA-05-11-72-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

8. PA-05-11-75-LS Legislative Commission District I Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Agriculture and Resource Conservation to Agriculture and Resource Conservation for property located South of Bermont Road (C.R. 74) and East of S.R. 31; containing 10,517.9 acres more or less, in the Punta Gorda area; Commission District I; Petition No. PA-05-11-75-LS; applicant Evans Properties, Inc.

Ms. Williams explained this petition requests a large scale plan amendment to shift the future land use boundaries so that the Resource Conservation FLUM covers land areas that are considered

environmentally sensitive and the Agriculture FLUM covers land areas that have been and are being used for agricultural purposes; reviewed the staff report and packet material; DCA has no objections to this petition; and staff recommends approval.

Jessica Christianson, Scientist with Environmental Affairs Consultants, explained they did all the environmental consulting for the applicant, they were instrumental in creating the new resource conservation area boundary, this is just a correction of boundary area, there is no net loss in conservation, and it will offer additional habitat protection.

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

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-025 FOR PETITION PA-05-11-75-LS, SECONDED BY COMMISSIONER D'APRILE.**  
Motion Carried 5:0.

9. PA-05-11-76-LS Legislative Commission District III  
Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Recreational Vehicle Park to Low Density Residential, for property located South of San Casa Drive and East of Placida Road (C.R. 775); containing 170 acres more or less, in the Englewood area; Commission District III; Petition No. PA-05-11-76-LS; applicant J&J Homes, Inc.

Ms. Williams explained this petition requests a large scale plan amendment; reviewed the staff report and packet material; advised DCA issued five objections to this petition which have been addressed in the staff report and by the applicant's agent; and both staff and the P&Z Board recommend approval.

Attorney Berntsson spoke on behalf of the applicant in support of and agreement with the staff report.

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

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-026 FOR PETITION PA-05-11-76-LS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

10. PA-05-11-80-LS Legislative Commission District II Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Agriculture to General Mixed Use, for property located north of Green Gulf Boulevard, south of Notre Dame Boulevard, east of Alligator Street, and west of Tamiami Trail (US 41), containing 82.21± acres, in the South Punta Gorda area; Petition No. PA-05-11-80-LS; applicant Eighty One Hundred LLC.

Jan Hancock explained this petition requests a large scale plan amendment from Agriculture to General Mixed Use; reviewed the staff report and packet material; DCA identified several objections and comments to the proposed petition which have been addressed in the revised staff report; and stated staff recommends denial because the proposed change is premature due to several factors including funding for the design and construction of Tucker's Grade Extension, no utility commitments for potable water and sanitary sewer services, and the current available housing stock and lack of a needs analysis.

Attorney Geri Waksler spoke on behalf of the applicant in support of the plan amendment.

**(Assistant County Administrator Shoemaker replaced County Administrator Loucks for this portion of the meeting.)**

Attorney Waksler commented on the future planned use of the property, distributed a handout of a possible site plan, commented on the inclusion of this project in the Burnt Store plant expansion, stated all issues raised by DCA have been addressed, the P&Z Board recommended approval, and requested the Board approve the proposed plan amendment.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

**Commissioner Cummings** noted the issues of site access and right-of-way (ROW) acquisition for the road expansion haven't been addressed, opined the only thing this does is drive up the cost of acquiring that land for the road when the time comes, and said he doesn't see a public benefit to that.

**Commissioner Moore** asked staff to repeat the reasons for denial.

Ms. Hancock responded a needs analysis was not submitted to prove there was a need to convert agricultural lands to residential; Comp Plan Policy 2.2.21 states Charlotte County will preserve the economic viability of agricultural lands and will prevent the premature conversion of these lands to other uses; it is staff's position this plan amendment is premature because they don't know what type of commitment they have from the developer or the other land owners in the area to design, acquire and build Tuckers Grade Extension; the planned plant expansion for water and wastewater won't be completed until 2009; and because there's a tremendous amount of existing housing stock staff didn't see an established need since that housing stock hasn't been consumed.

**Commissioner Moore** asked if a commitment to assist with Tuckers Grade was required. Attorney Waksler responded they were not part of the Burnt Store Plan so they were not required to make that commitment for providing the road ROW.

**Commissioner Duffy** asked if the issue of housing stock has anything to do with the of fact that 70% of the lots in Tropical Gulf Acres are vacant. Ms. Hancock said yes.

**Commissioner Duffy** asked if there had been any complaints from the adjoining neighbors. Ms. Hancock said only one regarding ATVs. Attorney Waksler added there just aren't many adjoining neighbors out there.

**Commissioner D'Aprile** said he has a problem with the layout on the drawing provided. Attorney Waksler clarified this will be a PD and there will have to be site plan approval.

**Commissioner Cummings** said the likelihood of building out Tropical Gulf Acres on well and septic is nonexistent because the Comp Plan will require water and sewer out there. Ms. Hancock agreed.

**Commissioner Cummings** opined all of this is a moot point, said there is no plan for development, this is just a FLUM change that will increase the value of the land that needs to be acquired when we go to do the Tuckers Grade Extension.

Attorney Waksler explained the land use change wouldn't change the zoning, the zoning would still be agricultural so the property value increase isn't true, when the zoning change is brought forward it would be in the form of a PD that would include conditions, and one of those conditions that would be included would deal with the road.

**Chairman Loftus** said his concern was the applicant opted out of being involved with the Burnt Store plan and they need to have all the developers working together. Attorney Waksler clarified the applicant has only owned this property about a year so they weren't the ones who opted out. **Chairman Loftus** said he wanted to see them get involved because there's no way this County is going to be able to provide the infrastructure. Attorney Waksler said the property owners have already joined with the members of the Burnt Store Plan.

**Commissioner D'Aprile** agreed it's premature at this time.

**COMMISSIONER D'APRILE MOVED TO DENY PETITION PA-05-11-80-LS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

**RECESS: 3:08 PM - 3:21 PM**

11. PA-06-05-26-LS Legislative Commission District II Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Agriculture to Public Lands and Facilities for property consisting of 78.64± acres located East of Burnt Store Rd; Section 32, Township 42 South, Range 23 East; Petition No. PA-06-05-26-LS; applicant Charlotte County Board of County Commissioners.

Ms. Williams explained this petition requests a large scale plan amendment from Agriculture to Public Lands and Facilities; reviewed the staff report and analysis in the packet material; stated the purpose of the petition is to amend the FLUM to

correspond with the use of the property as a public facility; DCA issued no objections or comments; and staff recommends approval.

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

**Motion Carried 5:0.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-027 FOR PETITION PA-06-05-26-LS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

12. PA-06-05-27-LS Legislative Commission District I  
Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Low Density Residential to Preservation, for property located South of Sam Way and Royal Palm Drive, West of Duncan Rd., East of the Peace River and North of Taralane Dr., in the Punta Gorda area, containing 215.1 acres more or less; Commission District I; Petition No. PA-06-05-27-LS; applicant Charlotte County Board of County Commissioners.

Ms. Williams explained this petition requests a large scale plan amendment of several parcels of land owned by the Southwest Florida Water Management District from Low Density Residential to Preservation; reviewed the staff report and analysis in the packet material; stated the purpose of the petition is to amend the FLUM to correspond with the ownership of the properties by the State as preservation land; DCA issued no objections or comments; and staff recommends approval.

Commissioner Duffy asked if this will reduce any platted lots. Ms. Williams said this area is not platted but they will be reducing density.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-028 FOR PETITION PA-06-05-27-LS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

13. PA-06-06-37 Legislative Commission District V  
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 High Density Residential to Low Density Residential for a property located south of Percy Avenue, north of Austin Avenue, east of Aaron Street, and west of Harbor Boulevard; containing 5.6± acres, in the Port Charlotte area; Commission District V; Petition No. PA-06-06-37; applicant Charlotte County Board of County Commissioners.

Ms. Shao explained this petition requests a small scale plan amendment from High Density Residential to Low Density Residential; reviewed the packet material; stated the purpose of the petition is to amend the FLUM to make it consistent with the Zoning; and both staff and the P&Z Board recommend approval.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

**COMMISSIONER DUFFY MOVED TO APPROVE ORDINANCE 2007-029 FOR PETITION PA-06-06-37, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

14. PA-06-07-46 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 Commercial Center to Low Density Residential, for property located at 4700 Arlington Drive, in the Cape Haze area; Containing 4.57 acres more or less; Commission District III; Petition No. PA-06-07-46; applicant: Preserve at Cape Haze Inc.

15. Z-06-07-47-TDU Quasi-Judicial Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial Intensive (CI) to Planned Development (PD), for property located at 4700 Arlington Drive, in the Cape Haze area; Containing 4.57 acres more or less; Commission District III; Petition No. PA-06-07-46; applicant: Preserve at Cape Haze Inc.

(Chairman Loftus polled the Board for ex-parte disclosures. Commissioner Duffy said yes and she would submit the appropriate form.) (Deputy Clerk Mitchell administered the oath to prospective witnesses.)

Ms Shao explained the petition requests a small-scale plan amendment from Commercial Center to Low Density Residential; the companion rezoning petition requests a rezoning from Commercial Intensive (CI) to Planned Development (PD); reviewed the staff reports and analysis in the packet materials; stated the purpose of the proposed plan amendment is to allow the applicant to pursue a residential development; and both staff and the P&Z Board recommend approval of the plan amendment and the rezoning with conditions "a" through "u" as detailed in the proposed ordinance.

Attorney Waksler distributed a handout, spoke on behalf of the applicant in support of staff report, stated they accept all conditions, and requested approval.

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

Commissioner Moore asked the number of units. Attorney Waksler responded 20 attached town homes in four buildings.

Commissioner Moore said he feels very strong that this is totally inappropriate for that part on Coral Creek.

Commissioner Cummings asked the minimum navigable depth in that area. Commissioner Moore responded a flats boat on the proper tide. Commissioner Cummings asked if this was one of the parcels identified in the blue belting study. Ms. Shao said she didn't know.

Commissioner Cummings said he has mixed feelings about this.

Chairman Loftus agreed they need to get back to the Blue Belting Plan but said he doesn't feel this particular piece of property would be the best use for that.

**Commissioner Moore** asked what was being built at grade level. Attorney Waksler responded garages will be at grade level but the units themselves will be raised slightly above that to comply with FEMA elevation requirements.

**Chairman Loftus** asked the proposed height. Attorney Waksler said the buildings were limited to 35 feet and immediately adjacent are single-story residential homes.

**COMMISSIONER MOORE MOVED TO DENY PETITION PA-06-07-46, SECONDED BY COMMISSIONER CUMMINGS.**

**Commissioner Cummings** opined they might be trying to pick between two different uses neither of which is appropriate for the neighborhood but he wants to hear what the rest of the Board has to say.

**Commissioner D'Aprile** said in the past they tried not to make changes to a neighborhood if it changed the outlook or structural features of the community, it appears this would change the neighborhood quite severely, he hasn't heard any dissention from any of the residents, and he doesn't have any problems with building homes there but with this he does have a problem.

**Chairman Loftus** said he understands where the Board has been going in the last three years, and he would agree if this was in the middle but it's kind of on the dead end of the street so he didn't know if the impact would be the same.

**Commissioner Duffy** asked what exactly were the Commissioner's concerns. **Commissioner Moore** reiterated this was out of balance and character with a neighborhood that is very unique.

**Commissioner Duffy** asked if they can take that into consideration if it's quasi-judicial. Attorney Browne clarified this was legislative so they could consider the issue of compatibility.

**Commissioner Cummings** asked if this could be developed under the existing zoning. Ms. Shao said yes but under CI there would probably be more impact than the proposed residential development.

Attorney Waksler asked for a one month continuance so she could discuss this with the applicant who had to leave.

Commissioner Moore withdrew his motion and Commissioner Cummings withdrew his second.

COMMISSIONER MOORE MOVED TO CONTINUE PETITIONS PA-06-07-46 AND Z-06-07-47-TDU TO THE MAY 15, 2007 LAND USE HEARINGS, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

Commissioner Cummings said when this comes back he would like staff to let him know if this was one of the identified parcels in the Blue Belting Plan.

(Commissioner Moore was not present for the remainder of the meeting.)

16. PA-06-07-49                    Legislative                    Commission District IV  
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 Commercial Corridor, for property located southwest of U.S. 41, and northeast of N. Ellicott Circle.; containing .46± acres; Commission District IV; Petition No. PA-06-07-49; applicant: Mr. T's Onnon Land, LLC.

17. Z-06-07-50                    Quasi-Judicial                    Commission District IV  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial General (CG), for property located southwest of U.S. 41, and northeast of N. Ellicott Circle.; containing .46± acres; Commission District IV; Petition No. Z-06-07-50; applicant: Mr. T's Onnon Land, LLC.

Ms. Shao explained the petitions request a small scale plan amendment from Low Density Residential to Commercial Corridor and a rezoning from RSF-3.5 to CG; reviewed the packet materials; stated the purpose of the petition is to allow the applicant to have some professional and commercial office uses on the subject site in the US 41 Zoning District Overlay; and both staff and the P&Z Board recommend approval.

Attorney Warren Ross spoke on behalf of the applicant in support of the staff report and requested approval.

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.) (Deputy Clerk Mitchell administered the oath to prospective witnesses.)

COMMISSIONER CUMMINGS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 4:0. ABSENT: Commissioner Moore.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-030 FOR PETITION PA-06-07-49, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:0.

ABSENT: Commissioner Moore.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-031 FOR PETITION Z-06-07-50, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner Moore.

18. PA-06-10-58 Legislative Commission District II 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 Agriculture to Low Density Residential, for property located south of N. Jones Loop Road, northeast of Interstate 75, and north of S. Jones Loop Road, in the Punta Gorda area; containing 10± acres; Commission District II; Petition No. PA-06-10-58; applicant: SW Florida Land Fifteen, LLC.

19. Z-06-10-59-TDU Quasi-Judicial Commission District II An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Environmentally Sensitive (ES), Mobile Home Conventional (MHC), Mobile Home Park (MHP), and Agriculture Estates (AE) to Planned Development (PD), for property located south of N. Jones Loop Road, northeast of Interstate 75, and north of S. Jones Loop Road, in the Punta Gorda area; containing 135.14± acres; Commission District II; Petition No. Z-06-10-59-TDU; applicant: SW Florida Land Fifteen, LLC.

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.) (Deputy Clerk Mitchell administered the oath to prospective witnesses.)

Ms. Shao explained the petitions request a small scale plan amendment from Agriculture to Low Density Residential and a rezoning from Environmentally Sensitive (ES) Mobile Home conventional (MHC), Mobile Home Park (MHP), and Agriculture Estates (AE) to Planned Development (PD); reviewed the staff reports and analysis in the packet materials; stated the purpose of the petition is to allow the applicant to have a 603-unit residential development; and both staff and the P&Z Board recommend approval of both the plan amendment and the rezoning with conditions "a" through "y" as contained in the proposed ordinance.

Attorney Neale Montgomery spoke on behalf of applicant in agreement with staff report and conditions "a" through "y".

Earl Smith said he owns the 93 adjacent acres, he has no problems with the proposed development but he does have concerns regarding water because there are water level problems out there, and asked if wells will be allowed.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

Attorney Montgomery clarified they were looking at going to a different aquifer so it won't impact his well and offered to provide Mr. Smith with a copy of their consumptive use permit so he can follow it.

**Commissioner D'Aprile** said he'd like to see that happen, and it's on the record so please produce that information for him.

**Commissioner D'Aprile** asked if they were going to supply their entire project with a well or wells. Attorney Montgomery said there will be a common area, there were several ways to irrigate such as using a lake or wells, and they have looked at going down to the third level which is sort of brackish for irrigation so they won't impact any of the other wells in the area.

Chairman Loftus said he wants to see that happen.

Commissioner D'Aprile asked if SWFWMD allowed this. Attorney Montgomery responded they're required for potable purposes to connect to utilities, and there is sufficient capacity with the City of Punta Gorda Utilities.

Commissioner Cummings said if their well gets permitted it means there would not be any adverse impact but he discouraged using brackish water unless they were prepared to deal with the issues of salinity, and he hoped this would not be a gated community.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-032 FOR PETITION PA-06-10-58, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings asked if they had considered the issue of flight paths in case in the future the airport needed a navigation easement or something like that. Attorney Montgomery displayed a diagram from the Comp Plan showing the flight paths, and stated they're not in it.

Motion Carried 4:0. ABSENT: Commissioner Moore.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-033 WITH CONDITIONS "A" THROUGH "Y" FOR PETITION Z-06-10-59-TDU, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 4:0. ABSENT: Commissioner Moore.

Commissioner Cummings said he wanted to make some comments about the EARS from this morning, there were some things they didn't address in this iteration such as tightening up their utility extension regulations, the Land Development Regulations for what kind of development they allow in rural areas and whether it costs the County more money for the roads out in rural areas, and opined even though they have someone else willing to pay 75% he still felt the County settled for less instead of paying more money and getting a much better product.

ADJOURNED: 4:16 PM

Signature on file in Commission Minutes  
Chairman

ATTEST:

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

By: Signature on file in Commission Minutes  
Deputy Clerk

/ksm