

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS  
SPECIAL LAND USE MEETING  
COUNTY ADMINISTRATIVE CENTER  
1112 Manatee Avenue West  
Bradenton, Florida  
October 3, 2017**

Present were:

Betsy Benac, Chairman  
Robin DiSabatino, First Vice-Chairman  
Charles B. Smith, Second Vice-Chairman  
Stephen R. Jonsson, Third Vice-Chairman  
Vanessa Baugh  
Carol Whitmore  
Priscilla Whisenant Trace

Also present were:

Nicole Knapp, Planning Section Manager  
Sarah Schenk, Assistant County Attorney  
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

 Chairman Benac reconvened the meeting of September 29, 2017, at 9:00 a.m.

All witnesses and staff giving testimony were duly sworn.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

1.  The Invocation was delivered by Commissioner Smith, followed by the Pledge of Allegiance.

**AGENDA**

Agenda Update Memorandum:

BC20171003DOC001

BC20171003DOC002

- Item 3, PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLLP and Cargor Partners VIII, Long Bar Pointe LLLP Rezone/Aqua by the Bay – Additional public comment

2. **CITIZENS' COMMENTS** (Future Agenda Items)

BC20171003DOC003

 Mary DeLarco, Palm Aire resident, displayed photographs of tree debris and inquired when the property located at Lockwood Ridge Road and Whitfield Avenue would be cleaned up. Ms. DeLarco expressed concern that the property owner is Carlos Beruff, who is also the applicant for Aqua by the Bay.

Chairman Benac stated the hearing for Aqua by the Bay is quasi-judicial and residents are not allowed to address any concerns regarding the project under citizen comments for future agenda items.

Ms. DeLarco withdrew her comments regarding Aqua by the Bay.

 Chairman Benac announced citizen comments for future agenda items are designated for 30 minutes and if needed, comments can be continued later in the meeting.

 Sarah Schenk, Assistant County Attorney, stated the matter referenced by Ms. DeLarco was referred to the County Attorney's office for a legal opinion. The Board is not a Code Enforcement Board, and she advised residents to not speak on Aqua by the Bay.

 Michael Pepper spoke on how Manatee residents are at risk due to the increase in population growth. He requested the Board host work sessions to discuss increasing the efficacy of sheltering residents by working with the School District to ensure schools are hurricane hardened and more schools are available for shelters.

 Merrie Lynn Parker requested work sessions to clarify, define, and specify standards for applying the term “overriding public benefit” as specified for wetland protection in the Comprehensive Plan and Land Development Code.

 Barbara Angelucci appealed for a future agenda item regarding the Board’s practice of allowing special and specific approvals. She expressed concern with traffic congestion, which is exacerbated by development.

 Ed Goff expressed concern with vertical rezoning and its effect on non-elevated surrounding lands. He displayed black and white photographs of Centre Lake Subdivision, which was flooded following the storm in August 2017.

 Arlene Dukananskas displayed a photograph of mangroves at Legends Bay after Hurricane Irma and a photograph of a seawall during Hurricane Irma to point out how natural barriers better protect homes.

 Karen Willey discussed how mangroves protect our homes and businesses. She requested the County apply for the mangrove protection program as found in Section 403.9324, Florida Statutes.

 Joe McClash requested a future agenda item to ensure the implementation of the Comprehensive Plan goals, objectives, and policies for the protection of upland habitat and the requirements of the Land Development Code.

 Joe Mullery displayed photographs of recent hurricanes to discuss storm surge and its devastation.

 Jane van Hahmann suggested the Board have a work session to discuss transportation, gas resources, and evacuation routes due to experiences with Hurricanes Irma and Harvey.

 Sandra Ripberger requested a work session to discuss adhering to the Comprehensive Plan and the Land Development Code regarding zoning, building, and rebuilding, which should be directed outside of coastal areas.

 Bobby C. Billie, Council of the Original Miccosukee Simanolee Nation Aboriginal Peoples, requested respect for the indigenous people, burial grounds and wetlands.

There being no further citizen comments, Chairman Benac closed citizen comments.  
(Note: Additional citizen comments were taking later in hearing)

**RECESS/RECONVENE:** 9:33 a.m. – 9:36 a.m. All Commissioners were present.

 Chairman Benac read procedures that govern how those in attendance should conduct themselves during the public hearing (Resolution R-16-068, Exhibit A, Section 5.4.2).

(Court Reporter, Diana Kelly, present)

3. **ORDINANCE/ZONING**

 A duly advertised public hearing was held (continued from 8/23/17 and 9/29/17) to consider adoption of proposed Zoning Ordinance PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLLP and Cargor Partners VIII, Long Bar Pointe LLLP Rezone/Aqua by the Bay. The Planning Commission recommended denial and staff recommended approval.

Attachments corresponding with the agenda memorandum are:

- Attachments for the staff report, and additional information BC20171003DOC004
- Attachments 2-17 BC20171003DOC005
- Attachment 18 (Public Comment, 1 of 8) BC20171003DOC006
- Attachment 18 (Public Comment, 2 of 8) BC20171003DOC007
- Attachment 18 (Public Comment, 3 of 8) BC20171003DOC008
- Attachment 18 (Public Comment, 4 of 8) BC20171003DOC009
- Attachment 18 (Public Comment, 5 of 8) BC20171003DOC010
- Attachment 18 (Public Comment, 6 of 8) BC20171003DOC011
- Attachment 18 (Public Comment, 7 of 8) BC20171003DOC012
- Attachment 18 (Public Comment, 8 of 8) BC20171003DOC013

 Sarah Schenk, Assistant County Attorney, remarked that public comment was closed on August 23, 2017. In the event the applicant submits substantial modifications to the stipulations or general development plan at this public hearing, this could prompt re-advertising of the public hearing and re-opening public comment. Thus, she advised the Board to avoid re-opening public comment, and that any questions to the applicant or staff specifically relate to the revised stipulations, which will be reviewed and addressed by the applicant. Removal of the estuary enhancement area and/or the seawall from the general development plan cannot be covered with a stipulation, because this would be a substantial change requiring a revised general plan. A substantial modification to the general development plan requires public comment portion of the public hearing to be re-opened. As stated at previous public hearings, the Board should focus on whether the applicant has met the initial burden of demonstrating by competent, substantial evidence, that the project as a unified project is consistent with the Comprehensive Plan and the Land Development Code. Section 402.3.A, Land Development Code, states planned development is land to be planned as a whole, thus, the Board cannot vote on piecemeal portions of the project. The legal standard for review is that the approval of the project will be judged in third-party challenges under a strict scrutiny standard (compliance with the Comprehensive Plan).

 Nicole Knapp, Planning Section Manager, submitted additional public comments, which were submitted after the agenda was published to e-agenda. BC20171003DOC014

Since the August 23rd public hearing, staff has corresponded with the applicant regarding Stipulations A.7, A.16, A.17, and new stipulation A.18 (outline of correspondence found on page 7, BC20171003DOC004). Based on comments from the County Attorney's office, the applicant deleted Stipulation A.16 (motorized boats), proffered two new stipulations for a hurricane evacuation and disaster plan and the estuary enhancement area, and revised the stipulation for the project's phasing, which supersedes the phasing on the general development plan (see letter dated 9/22/17, BC20171003DOC004). Staff has not changed their recommendation for approval, and the general development plan before the Board is consistent with the Comprehensive Plan and the Land Development Code. However, staff cannot support Stipulations A.18 (phasing) and A.19 (the estuary enhancement area) because of contradictions. The general development plan must be consistent with the approved

zoning ordinance. The applicant submitted a revised recommended motion, which includes the proposed stipulations.

BC20171003DOC015



Discussion ensued about the docks and the motorized boats, the entitlements associated with approving the general development plan, and the estuary enhancement area.



Ms. Schenk elucidated at the August 23rd public hearing, the applicant proposed Stipulation A.16: "Motorized boats shall not be permitted in the estuary enhancement area." The authority to exclude motorized vessels in waterways is generally reserved for the State under Section 327.46(1)(b), Florida Statutes. A vessel exclusion zone must be enacted under an ordinance as general applicability not as a stipulation and zoning ordinance, and involves certain State agency review and a focus on public safety. The alternative stipulation she offered to the applicant (page 70, BC20171003DOC004) would have been contained within the Notice of Buyers, and applicable to people who own property with private docks to prevent launching of motorized vessels. At this point, none of the stipulations address motorized boats. She noted approval of the general development plan includes approval of the estuary enhancement area.



Thomas Gerstenberger, Stormwater Engineering Division Manager, explained at the general development plan and preliminary site plan level it is only to identify and reflect intent and does not include technical supporting data, modeling, calculations that support the design and intent with the estuary enhancement area, which is included in the final site plan/construction plan review.

Commissioner Whitmore expressed concern that the County will be exposed if the Board denies the request.

Ms. Schenk explained the Board would be exposed if the stipulations as proposed by the applicant are approved. Normally, a public hearing would not be held for a general development plan unless there were substantial changes.

Chairman Benac affirmed the Board cannot approve the stipulations, because the phasing plans are in conflict. She questioned the applicant's intent.



Edward Vogler, attorney representing the applicant, explained the submitted stipulations were an attempt to address concerns that were presented by the Board, and to obtain approval of the project.

Chairman Benac requested that the estuary enhancement area not be located within the wetland buffer area.



Discussion continued about the general development plan being consistent with the Comprehensive Plan, the applicant's willingness to proffer language eliminating the estuary enhancement area, and the project would have to be re-advertised if the estuary enhancement area were to be deleted.



Carlos Beruff, applicant, expressed concern with the possibility of another hearing due to the estuary enhancement area being deleted.



Chairman Benac stated the issues of concern pertain to moving or eliminating the estuary

enhancement area out the wetland buffer and stipulating language for the phasing of the project. She questioned why the Board could not hear public comment on just the two issues of concern.

 Ms. Schenk pointed out the revised stipulations from the applicant do not eliminate the estuary enhancement area, and the applicant would have to enter into the record a general development plan that removes the estuary enhancement area. The Board could take public comment on this aspect.

Chairman Benac inquired if staff relies on the phasing plan, and if it could be stricken from the general development plan.

 Ms. Knapp elucidated from a planning standpoint, the Land Development Code does not require the building of a certain number of units per phase. Phasing provides flexibility in the construction of the overall project.

 Tom Pride, County Environmental Consultant, pointed out the estuary enhancement area is proposed to be the mitigation for the wetland impact. If the estuary enhancement area were to be removed from the general development plan, would the applicant continue to have wetland impacts, and what would be offered for mitigation for those impacts.

Ms. Schenk stated the zoning ordinance and general development plan must match.

Chairman Benac requested Commissioners state their concerns before taking a recess.

 Commissioner Trace expressed concern with the wall and the fill.

Mr. Vogler reported the wall would be eliminated with the removal of the estuary enhancement area.

Chairman Benac asked for ex-parte communications.

 Commissioner Trace disclosed that she met with Mr. Beruff, but they did not discuss Aqua by the Bay. She also read emails.

 Commissioner Baugh met with Mr. Beruff regarding the property located at Whitfield Avenue and Lockwood Ridge Road in order to settle existing concerns.

 Commissioner Jonsson disclosed he read all emails and met with the applicant regarding a future project.

 Commissioner Whitmore disclosed she was approached by residents.

 Commissioners DiSabatino and Smith disclosed they were approached by residents and they read emails but did not respond.

 Chairman Benac disclosed she was asked about the status of the project and the purpose of another hearing.

 Commissioner DiSabatino noted overriding public benefit, the phasing plan, the estuary enhancement area, the wall, burial mounds (historical/archaeological sites), and building heights are issues of concern for residents.

 Chairman Benac clarified the County does not have a prohibition against buildings being over 35 feet (must meet design standards), and this site is perfect for buildings 35 feet and higher. She is in favor of the phasing plan coming back at the preliminary site plan stage depicting the building design and heights.

Ms. Schenk expressed concern that the Board would be creating a false expectation, because the future Board will not have the discretion to deny the preliminary site plan.

Commissioner Whitmore stated she would like to complete this process today since concerns with the building heights over 145 feet and the estuary enhancement area have been addressed.

 Commissioner Jonsson concurred with Commissioner Whitmore.

Chairman Benac stated there is a lot of misinformation based on the emails received from the public. She relayed the site is zoned PDR (Planned Development Residential), the County cannot take away property rights unless the owners are compensated, the property is in the RES-9 and RES-6 future land use categories, and the applicant is not proposing development over the limits of the Comprehensive Plan.

 Commissioner Smith echoed previous comments.

 Commissioner DiSabatino expressed concern with building heights in excess of 95 feet, and if the swale/ditch is sufficient between Legends Bay and this project.

 Mr. Gerstenberger reported the ditch in question is located on the Legends Bay property and there is a drainage easement associated with the final plat for Legends Bay. Both the ditch and the drainage easement are 60 feet wide. The ditch has been designed to convey runoff from the Manatee Fruit property to the north of El Conquistador Parkway. Legends Bay and this project are required to drain and collect internal runoff into internal stormwater facilities for water quality treatment only. There is no attenuation requirement for either Legends Bay or this project. This particular area of the flood insurance rate maps is located in the velocity zone, and the upland areas outside of the velocity zone are located in areas known as "AE" flood zones. The base flood elevation for "AE" flood zones ranges from 11-13 feet. Therefore, during a storm surge event, it is likely that storm surge would flow backwards through this particular drainage ditch.

Commissioner DiSabatino expressed concern with drainage issues in South County and a work session will be held in the future to discuss drainage in Centre Lake Subdivision.

Upon question, Mr. Gerstenberger reported the northwestern portion of the project is within the Coastal Barrier Resource Area (CBRA). The CBRA prohibits the issuance of new flood insurance policies through the National Flood Insurance Program (NFIP).

Chairman Benac questioned if Stipulation A.12 was written because the historical/archaeological sites fall under the jurisdiction of the Florida Department of State, Division of Historical Resources.

Ms. Knapp stated Stipulation A.12 is a boiler plate stipulation and the historical/archaeological sites are mentioned in several places throughout the staff report.

 Ms. Schenk stated Stipulation A.12 has been in the staff report since the beginning, and the applicant added the last sentence to clarify that Chapter 872, Florida Statutes applies.

There was discussion about the Board recessing for 30 minutes, the need for a new general development plan, because the County Environmental Consultant is correct, and the need to address areas of concern (phasing plan, the wall, and the estuary enhancement area).

 Ms. Schenk stated the applicant's attorney has proposed changes to the general development plan. She requested the changes be made to the general development plan itself and not done by stipulations. The general development plan should be part of the record, because this is a high profile, litigious site.

**RECESS/RECONVENE:** 10:45 a.m. - 11:32 a.m. All Commissioners were present.

 Chairman Benac stated the applicant has requested a recess until 3:00 p.m. in order to revise the general development plan to have consistency between the general development plan and the stipulations.

**CITIZENS' COMMENTS - ADDITIONAL** (Future Agenda Items)

BC20171003DOC003

 Jack Merriam requested a work session to discuss completing an adaption plan similar to the one adopted by the City of Punta Gorda in 2009, and the one that the City of Sarasota is currently working on. The adaption plan should begin with components including an assessment of vulnerable infrastructure with particular emphasis on green infrastructure such as coastal wetlands, mangrove forests, hospitals, roads and living shorelines. Living shorelines are more resilient to storm damage and afford greater protection. Efforts need to be made to protect and preserve coastal wetlands especially mangrove forests, rivers and bays as required by the Comprehensive Plan and Land Development Code.

 Shannon Larsen requested a future agenda item to discuss respect for burial grounds.

 Katherine Edwards requested the establishment of a local ethics commission.

 Larry Grossman requested the Board consider as part of the Land Development Code updates on the following: (a) strengthening the general development plan submission requirements for large projects; (b) require an applicant, who wishes to submit a large project, meet with affected neighborhoods prior to submitting formal application; and (c) consider requiring transportation demand management to mitigate traffic.

 Joanne McIntyre expressed concern with aging infrastructure, traffic congestion, and flooding.

 Andy Mele requested a work session related to the way in which the Comprehensive Plan and the Land Development Plan are interpreted by staff, Commissioners, and general public.

 Barbara Hines agreed with comments by Jack Merriam and requested the procedures for quasi-judicial hearings be revisited.

 Richard Maggio commented on the lack of communication between staff and the Board. (Depart Sarah Schenk, Assistant County Attorney; enter William Clague, Assistant County Attorney)

 Glen Gibellina requested future agenda items for electronic public comment cards, PACE Program, solar policy and various other topics.

 David Woodhouse commented on hurricanes and requested the Board hold a work session to discuss global warming, filling of wetlands and Sarasota Bay in relation to development.

There being no additional citizen comments, Chairman Benac closed citizen comments.

**RECESS/RECONVENE:** 11:57 a.m. – 3:00 p.m. All Commissioners and Sarah Schenk, Assistant County Attorney were present.

**COMMISSIONERS' COMMENTS**

BC20171003DOC016

Chairman Benac 

- Stated hurricane shelters were discussed in a work session (9/19/17). The County is part of the Tampa Bay Regional Planning Council (TBRPC), which evaluates shelter capacity. Based on the most recent TBRPC Study, the County has excess shelter capacity, because the County is grouped with Hillsborough County, which also has excess capacity. By law, the School District relies on the information. A letter (9/26/17) was written to the School Board asking for support in creating more shelter space for residents by requesting legislators to look at this issue and seek funding for the hardening of new schools. A new study has to be adopted in January 2018, and staff is predicting that the new study with updated population figures will show that the County does not have excess capacity.

Commissioner Whitmore 

- Explained the area where Mr. Goff lives was elevated and he would not be able to live there if this practice was not implemented

Commissioner Baugh 

- Received emails from Greenbrook residents asking for the speed limit on Lorraine Road to be increased to 45 mph. Residents who live adjacent to Lorraine Road do not want the increase because of noise pollution.

 Discussion ensued about in the past staff recommended the speed limit be increased to 45 mph, increasing the speed limit will encourage residents to drive at higher speeds, and increasing the speed limit to 40 instead of 45 mph.

Chairman Benac 

- Stated she spoke at the opening and closing ceremonies for the 2017 World Rowing Championships (held 9/24/17-10/1/17). The Sarasota-Bradenton Triathlon Festival will take place at Nathan Benderson Park on October 7-8, 2017.

 Discussion proceeded about volunteers, response from attendees and residents was positive, events at Nathan Benderson Park are regional efforts, and Making Strides against Breast Cancer will utilize the park (10/28/17).

3. **ORDINANCE/ZONING – PDR/PDMU-15-10(Z)(G)** (Continued)

 Sarah Schenk, Assistant County Attorney, reported the applicant has submitted a revised general development plan, and an updated recommended motion with stipulations, which will be reviewed.

 Edward Vogler, attorney representing the applicant, confirmed the general development plan now conforms to the stipulations that were addressed during Board deliberations.

 Misty Servia, planner representing the applicant, reviewed changes depicted in the revised general development plan:

- Sheet L1.01 – No changes;
- Sheet L1.02 – No changes;
- Sheet L1.03 –
  - Legend: references to the wall and the estuary enhancement area were removed;
  - 50-foot, post-development wetland buffer has been moved up against the wetland line (reflects a consistent buffer from the wetland);
  - Minimum Setbacks Table: reference to the upland retaining wall (row 7) was removed;
  - Estimated Acres Table: wetland impacts were revised from 13.29 acres to 7.93 acres;
  - Drawing: the estuary enhancement area depicted in blue, references (3) to the wall location (upland retaining wall), and reference to estuary enhancement area to be built as Phase II has been removed;
  - Section A4: language changed from 15-foot perimeter greenbelt buffer (from northern boundary line to estuary enhancement area) **to** 15-foot perimeter greenbelt buffer (from northern boundary line to wetland buffer); and
  - Section H11: language changed from 15-foot perimeter greenbelt buffer (from El Conquistador Parkway to estuary enhancement area) **to** 15-foot perimeter greenbelt buffer from El Conquistador Parkway;
- Sheet L1.04 –
  - Total wetland impacts changed from 13.29 acres to 7.93 acres (see site data, number four); and
  - Typical estuary enhancement area cross-sections (not to scale) deleted;
- Sheet L1.05 – No changes;
- Sheet L1.06 – No changes; and
- Sheet L1.07 –
  - Legend: references to the wall and estuary enhancement area; and
  - 50-foot, post-development wetland buffer has been moved up against the wetland line (reflects a consistent buffer from the wetland). BC20171003DOC017

 Discussion took place about no changes regarding open space and the number of the construction phases.

 Mr. Vogler pointed out wetland impacts have been reduced by six percent (Note 3 on Sheet L1.04), and the applicant can transfer less density when wetlands are impacted. The requested number of residential units has not changed. He reviewed amended Stipulations A.18-A.19 and new Stipulations A.20-A.22. BC20171003DOC018

 Ms. Schenk asked Mr. Vogler to confirm that at each preliminary site plan level of review, the applicant will comply with Comprehensive Plan and Land Development Code provisions regarding wetland impacts and mitigation. Mr. Vogler confirmed this will be done.

 Discussion continued about the lack of the wall affect, the tallest building height will be 95 feet (approximately 16 buildings in total), the estuary enhancement area has been deleted, no additional density, variable width buffer was deleted, unsure of the exact number of buildings at this point, in lieu of the vertical retaining wall there will be a transition slope, and if staff agrees with the proposed changes.

 Ms. Knapp stated staff has not changed their recommendation for approval, and they concur with the new stipulations, which now support the general development plan.

Tom Pride, County Environmental Consultant, concurred with Ms. Knapp.

Ms. Schenk stated she has no legal objections to the revised stipulations and general development plan, because they have been made consistent with each other. It is up to the Board whether to take public comment on the changes, and the comments can be limited to Stipulations A.18-A.22 as presented by Mr. Vogler.

 Discussion proceeded that the project was previously approved with building heights exceeding 35 feet in one phase, definition of height, the grade of El Conquistador Parkway, entertaining additional public comment regarding the phasing plan, the wall, the buffer greater than 50 feet, and the removal of the estuary enhancement area.

Ms. Knapp explained building height is determined from the grade of the building.

Mr. Gerstenberger reported the grade of El Conquistador Parkway is at or above base flood elevation (12-13 feet).

Public Comment

BC20171003DOC019

 Dan Young asked if the Board should have advertised the re-opening of public comment, and will the existing roadway be below the grade of the site.

 Andy Mele, Sierra Club, questioned the significance of the 35-foot height limit for buildings, and whether or not there will be an analysis of the impacts of fresh water on the local ecological system outboard of the mangrove fringe.

 Glen Gibellina stated the item should be re-advertised, because many residents left during the recess. The applicant did not provide copies of the revisions for the public, which means the testimony provided is hearsay. He suggested the item be continued to allow the public the opportunity to review the revisions.

 Shannon Larsen agreed with previous speakers and expressed concern with the historical/archaeological sites being impacted, because their locations are unknown.

 Barbara Angelucci asked if the Planning Commission would be notified of the revisions to the general development plan and stipulations.

 Larry Grossman echoed earlier comments regarding the re-opening of public comment.

He commented on Stipulation A.18 and the cumulative effect of the buildings.

 Sandra Ripberger stated the public is at a disadvantage because they have not had the opportunity to review the updated general development plan and stipulations. A wetland impact study should be conducted and she requested the item be continued.

 Barbara Hines, Manasota-88, requested the item be continued so all parties (possibly including the Planning Commission) have opportunity to review the revisions.

 Ed Goff agreed with previous comments, and expressed concern that the open water lagoons and the estuary enhancement area are being confused by residents.

Chairman Benac stated public comment should be limited to the revisions presented at this hearing. Upon request, she read revised Stipulation A.18: "Subsequent residential dwelling units, upon completion of the first 750 residential dwelling units, shall require further approval by the Board of County Commissioners at a public hearing prior to, or as part of, preliminary site plan approval, in increments of 750 units or more. Any approval shall be in conformance with Stipulation A.16."

 Joe McClash commented on wetland impact, and how the revised general development plan does not reflect what is required by the Comprehensive Plan and Land Development Code. He asked which buildings were being approved.

 Jack Merriam reported the elevation of El Conquistador Parkway is lower near Legends Bay (approximately 9 feet).

 Stuart Smith echoed previous comments and inquired about the distance of the buildings from the shoreline. The applicant has not complied with Land Development Code Section 402.7.d.9, and the Board should not approve the special finding until the applicant complies.

 Merrie Lynn Parker agreed with previous comments regarding public comment being re-opened. She sought clarification on the material of the buffer, if the Brazilian pepper trees would be removed as required by the Land Development Code, and if the grade begins after the wetland buffer.

There being no supplementary public comment, Chairman Benac closed public comment.

 Chairman Benac stated public comment was continued, and earlier in the hearing, the Board stated they would have to determine if public comment would be re-opened based on the revisions submitted.

Ms. Schenk explained staff has determined that the removal of the estuary enhancement area and the wall has made the project less intense; therefore, it is not legally required to go back to the Planning Commission.

 Mr. Vogler requested approval of the project.

Deliberations ensued about the wetland buffers, stormwater changes in relation to the removal of the estuary enhancement area, a general development plan does not require details such as the number of buildings, the number of units has not changed, it is

mandatory to remove Brazilian pepper trees, and the location of the burial mounds (historical/archaeological sites) has always been known.

**Motion**

 Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Commissioner Jonsson moved to adopt the Manatee County Zoning Ordinance PDR/PDMU-15-10(Z)(G); Approve the General Development Plan with Stipulations A.1-A.17 as recommended by staff and A.18-A.22 as proffered by the applicant (after renumbering Stipulations A.1-A.20), B.1, C.1-C.7, D.1-D.2, and E.1-E.4; Making a finding that the proposed buildings exceeding 35 feet in height are consistent with and satisfies the criteria in LDC Section 402.7.D.9; Granting Special Approvals for a: (1) mixed and multiple use project in RES-6 and RES-9 Future Land Use Categories (FLUCs); (2) gross density exceeding six dwelling units in RES-9 FLUC; (3) net density exceeding nine dwelling units in RES-9 FLUC; (4) non-residential project exceeding 30,000 square feet in RES-6 and RES-9 FLUCs; (5) project adjacent to a perennial stream (Sarasota Bay); (6) project partially in the CEA (Coastal Evacuation Area); and (7) project in the CHHA (Coastal High Hazard Area); as recommended by staff. The motion was seconded by Commissioner Baugh.

 Commissioner Smith stated he is satisfied with the applicant's actions, because he addressed the Board's comments/concerns, and he commented on due process.

Commissioner DiSabatino stated she is happy that the estuary enhancement area was removed and that the building heights will not exceed 95 feet.

 Chairman Benac complimented the public on their participation throughout the process and that changes were made based on their input.

 The motion carried 7-0.

BC20171003DOC020 (Approved Zoning Ordinance)

**ADJOURN**

There being no further business, Chairman Benac adjourned the meeting at 4:33 p.m.

Minutes Approved: \_\_\_\_\_