

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
SPECIAL LAND USE MEETING
COUNTY ADMINISTRATIVE CENTER
1112 Manatee Avenue West
Bradenton, Florida
August 23, 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 August 16, 2017, at 9:02 a.m.

All witnesses and staff giving testimony were duly sworn.

INVOCATION AND PLEDGE OF ALLEGIANCE

 The Invocation was delivered by Reverend Brian Bagley-Bonner, Faith United Church of Christ, followed by the Pledge of Allegiance.

AGENDA

BC20170823DOC001

Agenda Update Memorandum:

BC20170823DOC002

- Item 2, Zoning Ordinance PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLP & Cargor Partners VIII, Long Bar Pointe LLLP Rezone/Aqua by the Bay – Additional public comment

1. **CITIZEN COMMENTS** (Future Agenda Items)

 Barbara Hines thanked the Commissioners who voted in favor of moving the confederate monument from the Historical Courthouse.

 Joe McClash asked the Board to consider discussing procedures for quasi-judicial matters in regards to communication between the public and staff.

 Dr. Randy Edwards echoed Mr. McClash's comments.

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

(Court Reporter, Diana Kelly, present)

2. **ORDINANCE/ZONING**

 A duly advertised public hearing was opened (continued from 8/16/17) to consider adoption of proposed Zoning Ordinance PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLP & 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:

BC MB 2017/476

- Attachments 1-17 (various documents) BC20170823DOC003
- Attachment 18 (Public Comment, 1 of 7) BC20170823DOC004
- Attachment 18 (Public Comment, 2 of 7) BC20170823DOC005
- Attachment 18 (Public Comment, 3 of 7) BC20170823DOC006
- Attachment 18 (Public Comment, 4 of 7) BC20170823DOC007
- Attachment 18 (Public Comment, 5 of 7) BC20170823DOC008
- Attachment 18 (Public Comment, 6 of 7) BC20170823DOC009
- Attachment 18 (Public Comment, 7 of 7) BC20170823DOC010
- Attachments (remaining documents) BC20170823DOC011

Nicole Knapp, Planning Section Manager, read the item into the record and outlined the history.

 Sarah Schenk, Assistant County Attorney, reviewed procedural matters. She emphasized the Board does not have the authority to subpoena anyone, and if there is motion for continuance there must be a full board.

 Commissioner Whitmore disclosed that an elected official called her to discuss the item ,and she relayed that she could not speak on the matter.

Commissioner Jonsson disclosed he did not read the received emails.

Commissioner Whitmore expressed concern with not having the agenda materials in a timely matter and not having briefings with staff.

Stephanie Moreland, Building and Development Services, submitted additional public comment.

BC20170823DOC012

 Edward Vogler, attorney representing the applicant, explained at the previous hearing (8/16/17), the applicant requested two clarifications: (a) 50-foot linear post-development wetland buffer rather than a variable width buffer; and (b) withdrawal of the current request for building height in excess of 95 feet. Subsequent to the clarifications, the applicant submitted a revised drawing that shows the 50-foot linear buffer, which is part of the general development plan. The stipulation language was modified to conform to the 95-foot height limitation. After working with staff, staff has changed their recommendation from denial to approval. The applicant is not requesting special approvals or any variances, and there will be no environmental impacts.

 Ms. Moreland concurred with Mr. Vogler's comments. Staff is recommending approval and finds the request to be consistent, because the request meets the intent of RES-6 and RES-9 future land use categories. The site is in an area where there is mixed-use development or mixed-use development has been approved. The proposal is compatible in that the recommended building heights of 95 feet can co-exist with other building heights in the area.

Discussion ensued about the process since staff's recommendation has changed, width of the mangroves, Comprehensive Plan requirements for buffers, location of the beach, Comprehensive Plan Policy 4.4.5.2 regarding dredging, irrigation ditches and access, will both ends of the estuary be open, and the flushing study.

Ms. Schenk advised the Board to not provide testimony and for the applicant to display the

general development plan to point out the changes.

 Tom Pride, County Environmental Consultant, stated staff's recommendation of approval is based on the width of the buffer, which consists of upland habitat (high-dry land). The Comprehensive Plan requires that the buffer be adjacent to the post-development wetlands. The developer would add new wetlands that are contiguous to the existing mangroves; therefore, the new wetland boundary is further to the east (post-development wetland). The mitigation site, by definition, is a wetland pursuant to permit criteria from the State. He displayed the revised general development plan (Sheet L1.03) to discuss the 50-foot uniform width buffer around the post-development wetlands. He also displayed a graphic depicting a seawall and a graphic of an upland retaining wall.

BC20170823DOC013

Pursuant to Comprehensive Plan Section 3.3.1.2 and Land Development Code Section 706.6.a, evaluation of the proposed wetland mitigation is limited to whether the mitigation being conducted under the State's Uniform Mitigation Assessment Method (UMAM) process. This means that it is inappropriate to discuss the relative merits or offer opinions regarding the proposed mitigation; however, it does limit the extent to which the County can influence the mitigation design outside of the permitting process. The applicant has obtained a conceptual environmental resource permit from the Southwest Florida Water Management District (SWFWMD), which is a state permit. This permit contains specific restrictions on the mitigation area and other requirements such as a flushing study. Mr. Pride agreed that a flushing study is required to ensure the mitigation design is appropriate and that the site will function in a hydrologically suitable manner. The flushing study would be conducted during the design stage when an additional survey, design details and other site specific information is available. The applicant still needs to obtain construction level ERP (Environmental Resource Permit) and Army Corps of Engineers permits.

Mr. Pride explained:

- Dredging is done in water (digging up sediment that is under water) and excavation is done on dry land. The formal definition of dredging is in the Land Development Code (LDC) and per the LDC any digging the applicant is proposing is dredging even if it is on dry land; and
- There are two components to the estuary enhancement area: open water component and fringe or edge areas (shallow).

 Thomas Gerstenberger, Stormwater Engineering Division Manager, stated the flushing study itself would be associated with further review of the project at final site plan/construction plan stage, which would be performed by County staff. Additionally, it would require review and permit approval through SWFWMD and any other associated permits, which may be necessary through the Army Corps of Engineers.

 Mr. Vogler reported there will not be a beach on the shoreline, but rather a crystal lagoon, upland self-contained recreational amenity, which will be located east of the wall in Phase 1.

Commissioner Whitmore questioned the purpose of the estuary enhancement area.

 Carlos Beruff, applicant, stated the concept of the estuary enhancement area stemmed from the desire to create a larger buffer between the mangroves. Staff's recommendation for approval is based on compliance with the Comprehensive Plan. He confirmed he has applied for a mitigation bank permit, but it has been challenged.

 Mr. Vogler elucidated the lines on the general development plan are the Manatee Fruit Company draining areas and will be unavailable for access by boat or person. The width of the estuary enhancement area is a minimum of 60 feet and a maximum of 120 feet.

 Commissioner DiSabatino pointed out the process for this item has been confusing and questioned the completeness of the agenda and attachments on e-agenda. She questioned the status of the preliminary site plan, wetland plan, Comprehensive Plan Section 3.3.3.1, drainage channels, and archaeological research.

 Ms. Knapp explained for e-agenda, everything was forwarded from the previous hearing (8/16/17) and all of the new/edited information was saved lastly. When the applicant is ready to move forward with the preliminary site plan, it will be submitted to staff for review, and the approval will be done administratively unless there is a change from the general development plan.

 Mr. Pride noted Comprehensive Plan Section 3.3.1.2 requires a wetland survey prior to development. The applicant submitted a wetland survey that was conducted a few years ago, and it was recently reapproved by SWFWMD for consistency. At the time of preliminary site plan approval, the applicant will have show if anything has changed. The applicant is proposing wetland impacts and some are due to access roads.

 Mr. Gerstenberger stated the existing drainage channels from the Manatee Fruit property, which drain through the project area to Sarasota Bay, are located within the easements. In other words, the channels themselves are located within the easement areas. The easement language provides the property owner the right to re-route the conveyances through the post-development project areas but not to alter or reroute the channels in the existing wetland areas.

 After consulting the Florida Department of State, Division of Historical Resources, Ms. Moreland reported she had to sign a form to not disclose the location of the archaeological sites. There is a requirement that work on the site is to cease immediately if any human remains or archaeological resources are discovered.

 Mr. Pride confirmed the archaeological sites cannot be disclosed due to their sensitive nature. Protection of the archaeological sites is under Federal and State purview, and specific actions to be taken by the applicant to protect these sites will be developed during the ERP and Army of Corps of Engineers permitting. As part of the Federal permitting process, the Army Corps of Engineering will consult with tribal authorities and the result of the consultation will be binding upon the applicant. The County will require that the applicant provide for all cultural resource protection measures as determined during the State and Federal permitting processes on the preliminary/final site plans.

 Mr. Vogler stated the applicant is aware of the locations of the archaeological sites and a Janus Report was previously submitted.

 Chairman Benac requested clarification of whether or not Peninsula Bay has agreed to not trim the mangroves and how this was agreed upon.

Ms. Schenk stated the County Attorney's office does not advise the Board to stipulate the

trimming of mangroves. The Board's authority is preempted by State regulations and Florida Statutes. The Board does not have mangrove trimming regulatory authority unless an expert is hired and the County seeks an Interlocal Agreement with the State to get delegatory authority.

Chairman Benac sought answers regarding the wetland mitigation area, definition of dredging, do Brazilian peppers grow through the mangroves or just a certain area, what type of development will occur in the Brazilian pepper mangrove area, how the mangrove forest will be protected, protection of juvenile fish, what has been permitted to date, County jurisdiction over permitting, the report by Coastal Planning & Engineering, Inc. (CB&I), the flushing hydrologic study, and what is the model for a project of this magnitude with mid-rise buildings.

 Alec Hoffner, environmental consultant representing the applicant, displayed a Brazilian pepper wetland map to point out the Brazilian Pepper wetlands. Three different things will occur in the mangrove: (a) the areas would be enhanced by removing the Brazilian pepper and replanting with desirable native vegetation to create native habitats; (b) create the estuary enhancement area that will include some of the Brazilian Pepper areas that will be turned into mangrove forest and open water areas; and (c) some areas will be filled for development. As to the protection of the mangrove forest, Mr. Hoffner explained the mangrove forest has been identified. In the post-development condition, the applicant is committed to keeping the mangrove areas free of nuisance exotic vegetation and other impacts; and during construction, best management practices will be used to ensure that any work stays out of the mangrove areas. The estuary enhancement area will increase the area of mangroves on site by 9.6 acres. Existing mangroves will remain untouched in order to protect juvenile fish.

BC20170823DOC014

 Mike Keifer, representing the applicant, reported the mitigation area is an integrated design process and Mr. Hoffner described a variable habitat. There will be a diversity of fish that will go through the channels, which go through the mangroves.

 Mr. Hoffner acknowledged the applicant has a conceptual permit from SWFWMD that includes mitigation of the estuary enhancement area. The applicant will need construction permits from SWFWMD, Army Corps of Engineers, and the County.

Mr. Pride acknowledged the County does not have jurisdiction to approve or disapprove mitigation. However, the County does have the right to question and coordinate with both permitting agencies during the permitting process.

 Ms. Schenk questioned if Commissioner Whitmore reviewed the DVD from August 16, 2017, between 1:30 p.m. and 4:30 p.m. Commissioner Whitmore confirmed she watched the DVD.

 Mr. Pride relayed the CB&I review memorandum (BC20170504DOC024), which states the ecological enhancement and overall net benefit to the lagoon are unclear. CB&I did not have access to the UMAM assessment during their review, and the UMAM assessment of the conceptual ERP is now publicly available. The UMAM and conceptual ERP are under legal challenge. Pursuant to Comprehensive Plan Policy 3.3.1.2 and LDC Section 706.6.a, the County has to defer to the UMAM assessment and the County can review the results of the legal challenge. The CB&I report states the project includes converting existing upland wetland to the estuary environment, which results in an exchange of habitat types and not necessarily an enhancement (this statement is found under the general findings of the CB&I

review memorandum). Mr. Pride countered this statement with this opinion: Conversion of area infested with Brazilian Pepper to estuarine habitat is generally favorably by a restoration scientist. The CB&I review memorandum does not address the fact that several acres of Brazilian pepper will be converted to mangroves. The CB&I review memorandum recommended a flushing or hydrologic study and a storm surge evaluation.

 Mr. Gerstenberger explained this project would be subject to FEMA (Federal Emergency Management Agency) permitting for a letter of map revision to remove the developed areas of the project outside of the 100-year floodplain. Subsequently, the permitting storm surge analysis and an additional analysis would be required to demonstrate that the project itself would be placed outside of the 100-year floodplain post-development conditions.

Chairman Benac inquired as to which permit is being challenged.

 Mr. Vogler clarified the mitigation bank permit is being challenged; not the conceptual permit, which has been issued and is final.

Chairman Benac questioned if the flushing or hydrologic study should be a permit requirement.

Mr. Vogler replied the flushing study will be required with the ERP and the final project permitting through SWFWMD and the Army of Corps of Engineers. The conceptual permit is the framework; followed by submitted detailed drawings and engineering, and then a permit subsequently to build is issued.

Chairman Benac relayed that this project is coastal and unlike Lakewood Ranch. She asked if the flushing study will take into account impacts to mangroves.

 Mr. Keifer displayed a drainage flow map to point out the five existing ditches through the mangroves to Sarasota Bay. The estuary mitigation area will be constructed landward of the mangroves. During the process of design, there are two main objectives in evaluating the flushing study: (a) examine the surface area of the estuary and tidal prism to calculate how high the water level will rise during low and high tide relative to Sarasota Bay. The goal is to replicate it at 100 percent, but this is not always possible; and (2) calculate how many tide cycles it takes to exchange the water that is within the estuary area, thus meeting water quality. If the applicant does not demonstrate the functionality of the mitigation area in the estuary, then they cannot defend the permit; hence, the agencies cannot defend the issuance of the permit, and the permit will not be issued.

BC20170823DOC015

Chairman Benac stated she has not seen a project in Lakewood Ranch or in Manatee County that has an extensive amount of buildings along a waterfront. She inquired if the applicant has a model for a project of this magnitude with numerous mid-rise buildings.

 Mr. Beruff stated Bonita Bay Club (Bonita Springs, Florida) would be an example of the project. He used Lakewood Ranch as comparison earlier in relation to streets, sewer and water. In most coastal developments streets, sewer and water are below the floodplain, and this project will be built as a subdivision (one foot below the 100-year floodplain).

RECESS/RECONVENE: 10:29 a.m. – 10:41 a.m. All Commissioners were present.

 Commissioner Trace posed the following questions: (a) has the seawall been moved

eastward; (b) has the seawall decreased; (c) how will the seawall be tied in at the north and south ends of the project; and (d) what will be the width of the seawall.

Mr. Vogler confirmed the seawall has moved since the original design.

 John Cavoli, project engineer representing the applicant, stated the typical wall can be one foot to a foot and half thick because part of the component for a structural wall is how deep in the ground it goes. At this step in the process, the wall has not been designed.

 Commissioner Jonsson sought assurance that the project will not disturb the sea life in the kitchen. He questioned if the needed fill material will come from the proposed lagoon.

Mr. Vogler confirmed the kitchen will not be disturbed but enhanced. A lot of fill material is onsite today and a small amount will come from the estuary enhancement area. Developers try not to transport fill material because of cost.

 Commissioner Whitmore expressed concern with the submittal of the general development plan, the wall effect along Sarasota Bay, the kitchen in relation to the wetland mitigation area, and docks.

Ms. Moreland stated she is unsure as to when the applicant will submit the preliminary/final site plan, which will require staff review.

Mr. Pride pointed out the upland buffer, which is planted with native upland species, cannot be trimmed. The upland buffer will not be part of landscaping, but will be a natural habitat. Maintenance is required to keep Brazilian pepper and other exotics out of the upland buffer.

Mr. Vogler stated no docks are proposed for the request, and the reason the words private docking is listed is in case someone qualifies for a dock and they would not have to come back before the Board for approval.

 Mr. Hoffner remarked on the proposed plantings for the estuary enhancement area.

 Commissioner DiSabatino stated mangroves take numerous years to grow. She inquired about Bonita Bay Club, the number of buildings and units, the frontage of the request, explanation about page 7 of 62 of the staff report (BC20170823DOC011), calculation of open space, and the Board not having subpoena power.

Mr. Beruff stated at that time, he could not tell the Board the exact number of buildings and units. There will be two miles of frontage, which is quite a significant area to develop.

 Mr. Gerstenberger displayed four maps and Table 4 from the Statewide Regional Evacuation Studies Program to discuss the project site being in the Coastal Planning Area Zone A (Category 1 Storm Surge Level), the Coastal Evacuation Area, the Coastal High Hazard area (specifically based on the Category 1 Storm Surge the source of the storm surge elevation is the Tampa Bay Storm Tide Atlas, Volume 7), storm surge levels, the post-development project area. The applicant's intent is to pull or effectively remove the developed portion of the project outside of the 100-year floodplain, which is accomplished through a letter of map revision that is submitted to FEMA. The post-development project area is proposed to be elevated to 13 feet, which would remove the developed portions of the project outside of the Category 1-3 Storm Surge Elevation. The project itself and the post-

development areas of the project are outside of the velocity zone.

BC20170823DOC016

 Ms. Moreland stated up to 75 percent of the water bodies can be counted for open space and 25 percent of open space is required. At the time of preliminary site plan approval, open space will be reviewed and the 25 percent open space requirement will have to be met.

Commissioner DiSabatino questioned how much of the 158.75 acres of provided open space is water.

 Misty Servia, planner representing the applicant, stated there are two open space requirements: (a) Planned Development Residential requires 30 percent of open space; and (b) Planned Development Mixed-Use requires 25 percent. She explained she cannot specify the amount of open space, because this is a general development plan and the project has not been designed. The applicant will calculate open space in accordance with the Land Development Code, and submerged lands will not be included in the request.

Commissioner DiSabatino inquired about the amount of land available for open space.

Mr. Vogler reported calculations for open space would begin at the shoreline and the open space provided would be 158.75± acres.

Chairman Benac asked staff to read language from pages 11 and 14 of the staff report (BC20170823DOC011).

Ms. Knapp read the following language from the staff report (BC20170823DOC011):

- Page 11 – a minimum of 30 percent open space is proposed to be provided and 25 percent open space is required. The applicant indicates that the development will include approximately 28± acres of upland parks and open space areas. An additional 30± acres of open water lagoons, each with a beach shoreline, will be created for recreational purposes; and
- Page 14 – open space required (25 percent or 132.29± acres) and open space provided (30 percent or 158.75± acres)

Commissioner DiSabatino read additional language from page 11: Recreational amenities may include any of the following: estuary enhancement areas, common swimming areas, fitness centers, beaches, multi-use fields, boardwalks, trails, observation piers, dog parks, playgrounds, open space, tennis courts or similar uses. She expressed concern with the read language being confusing especially the reference to beach shoreline and how subpoena powers have been afforded to the applicant but not the Board.

 Ms. Schenk elucidated the Board does not have subpoena powers; hence the applicant does not either. Following the hearing on August 16th, she obtained a copy of the subpoena and its legal validity is under question.

Brief discussion ensued regarding subpoenas.

 Commissioner Smith inquired about stormwater, Riviera Dunes in regards to building height, location and number of proposed buildings, run-off, and the width of the seawall.

 Mr. Gerstenberger stated the post-development portion of the project will be required to drain to the stormwater systems associated with the development. The project will also

account for the conveyance of run-off from offsite areas to the east and north of this project from the Manatee Fruit property. Those areas were identified before as the strips of land that presently provide conveyance of run-off from the Manatee Fruit property through this project to Sarasota Bay. The project will be required to collect and convey the run-off from the development itself internally to stormwater retention ponds to provide water quality treatment; and, that run-off from the stormwater retention ponds would drain or outfall into Sarasota Bay. The project will also need to demonstrate that no adverse impacts are to be created outside of areas to and adjacent to this project (Tidy Island and/or Legends Bay) with respect to the grade. The project would be required to provide water quality treatment emulation of run-off of the developed portions of the project. The stormwater management design for this project is under requirements from the County and water quality standards from SWFWMD. In this case before outfall into Sarasota Bay, this project would be required to provide additional water quality treatment over the developed portions of the project. It is also a requirement to provide 150 percent water quality treatment of run-off over the developed portions of the project. In regards to the stormwater management system, the County and State have the responsibility through submittals and the final site plan, to determine consistency with the Comprehensive Plan and the LDC. The County or State has the authority to deny the permit.

Ms. Moreland reported the buildings in Riviera Dunes are 13 stories over parking.

Mr. Vogler stated the seawall has not been designed, and the post-development drainage is always improved.

 Ms. Knapp pointed out the wall effect will be addressed through Stipulation 15 (BC20170823DOC011), and the buildings will be limited by the floor area ratio.

Commissioner Whitmore expressed concern with substantial conformance.

Commissioner Baugh sought confirmation that the language states the amenities may be included and the plan has not been designed.

Ms. Moreland and Mr. Beruff confirmed Commissioner Baugh's statement.

Mr. Vogler clarified the estuary enhancement area will not have a beach.

Commissioner Whitmore stated she wants to make sure the shoreline will be protected and asked who will be monitoring this task.

Mr. Pride explained the County does have an obligation to monitor and this will be completed by Environmental Management staff.

Public Comment

BC20170823DOC017

 Andy Mele displayed a line-of-sight model to express concern with the proposed building heights, units and the plan, which appear to be flawed and inaccurate. He relayed his professional experience and education.

 Mr. Vogler questioned if Mr. Mele has advance degrees in land planning, engineering, and architecture.

 Mr. Mele stated he is an environmental scientist and an elective member of The Society of Naval Architects and Marine Engineers.

 Cynthia Finn explained in a previous hearing the applicant did reference Lakewood Ranch but it was in regards to the architecture. She expressed concern with the evacuation of all residents and not just the potential residents of Aqua by the Bay, and retail space being compatible with Cortez. Ms. Finn encouraged the Board to not vote on the item today.

Upon consensus by the Board, Chairman Benac announced the hearing will reconvene at 1:30 p.m.

RECESS/RECONVENE: 11:58 a.m. – 1:31 p.m. All Commissioners were present.

 Joe McClash, Suncoast Waterkeeper, expressed concern with the wetland impact, the mitigation bank, dredging and permitting, and seagrass (documents displayed).

 Mary Dougherty, executive director of the Gulf Coast Builders Exchange, stated the Board of Directors fully endorses the request.

 Duane Henderson was in support of the request.

 Michael Imperato commented on long-range design planning and was in support of the request.

 John Donovan was in support of the request.

 Katharine Pepper expressed concern with run-off, fill, the general development plan and the possible death of the mangroves due to the seawall.

 Barbara Hines, Manasota-88, concurred with comments from Andy Mele and Joe McClash. She expressed concern with the fill the applicant has already placed on the proposed site, burning on the proposed site, wetlands, mangroves, and wildlife.

 Bobby C. Billie, Council of the Original Miccosukee Simanolee Nation Aboriginal Peoples, spoke against the request due to the effect on the environment.

 Shannon Larsen stated there has to be a written statement concerning the two aboriginal indigenous sacred sites on the property from the developer to the Board to place in the record that the developer will protect the sites (additional comments submitted).

 Robert Slicker noted that the Board should focus on the plan and the environment.

 Mary Keith, Tampa Audubon Society, was not in support of the request due to the possible affect on the environment, seagrass, and mangroves.

 Steve Bayard opposed the request.

 Doug DeNeve opposed the request due to inconsistencies and possible environmental effects.

 Barbara Angelucci stated the project should be denied due to environmental damage the proposed plan would cause if approved. Buffers are required around all wetlands and

wetlands are required in places that are outstanding Florida waters. The Comprehensive Plan does not recognize mitigation. She suggested the item not be voted on today in order for the applicant to submit a complete plan.

 Michael Pepper opposed the request and commented on the lack of public participation in the process, Brazilian pepper, not receiving materials in a timely manner, and the proposed project's effect on commercial businesses.

 Lynn Vernon commented on how the Board will be making a decision without having adequate information. She displayed a photograph of Bonita Bay Club high-rise condos.

 Merrie Lynn Parker utilized a slide presentation to comment on the Coastal Planning Area (2017), Coastal High Hazard Area (2016), Coastal Evacuation Area (2017), and Comprehensive Plan and Land Development Code policies (wetland buffers, dredge and fill, artificial waterways, and density in the Coastal High Hazard Area). She suggested denial of the request.

 Holly Clouse was not in support of the request.

 Sandra Ripberger opposed the request due to dredging, which will impact the wetlands and buffers, fill in the Coastal High Hazard Area, and the proposed project's affect on the shoreline. She submitted an article from CoreLogic regarding storm surge.

 Mary Anne Faulkner opposed the request due to inconsistency with the Land Development Code and possible increase in traffic.

 Skip Hannon suggested the Board consider storms and/or hurricanes when making their decision.

RECESS/RECONVENE: 3:04 p.m. – 3:15 p.m. All Commissioners were present.

 Wendell Graham spoke on safety as it pertains to Tidy Island residents, wetlands, and the shoreline, which does not totally consist of Brazilian peppers.

 Arlene Dukauskas was not in support of the request do its inconsistency with the Land Development Code and the Comprehensive Plan (specifically regarding dredging).

 Jack Merriam, Sarasota Bay Foundation, Inc., reviewed/submitted his comments in opposition to the request.

 Dr. Randy Edwards relayed his credentials and addressed concerns with the wetland buffer (drawing displayed), mangroves, seawall, and boat and jet ski traffic.

 Ed Goff questioned the purpose of the estuary enhancement area and displayed a GIS (Geographic Information System) aerial to point out seagrass, wetlands from 2007, and Brazilian pepper wetlands. He opposed the request.

 Suzanna Young opposed the request and pointed out the present approval for the property is sufficient. The request as proposed is not consistent with the Comprehensive

Plan.

 Larry Grossman inquired about the width of the estuary enhancement area and the basis of the width. He requested denial of the request based on findings of fact on open space, building locations, compatibility with vistas, and docks.

 Jane von Hahmann, F.I.S.H. (Florida Institute of Saltwater Heritage), concurred with previous comments in opposition to the request. She requested recordings of the meetings held between the applicant and staff. She utilized a slide presentation to outline reasons why the request is inconsistent with the Comprehensive Plan and Land Development Code.

 Jeff Grove, Tidy Island resident, relayed his credentials and noted the vertical wall will not address concerns regarding storm surge (displayed map and referenced pages 16 and 27 of the staff report, BC20170823DOC003).

 Karen Willey, Around the Bend Nature Tours, expressed concern with rising sea levels and mangroves/seagrass loss. She displayed aerials of Robinson Preserve depicting a decrease in seagrass.

 Linda Peterson was not in support and suggested denial due to concern regarding the flushing study, building locations, and the potential for docks.

 Joe Mullery expressed concern with the two archaeological mounds on-site and wetlands.

 Captain Kathe Fannon displayed photographs and expressed concern with the estuary enhancement area and its impact on the kitchen.

 Tanner Pelkey was not in support of the request due to its potential impact on the shoreline and area.

 Joel Christian reported he was contacted by Mr. Vogler to be in attendance at the hearing. Per the Land Development Code he clarified, a general development plan does not have to give details. The property is zoned PDR (Planned Development Residential), and if the request is denied, the property would have to come back before the Board before it is developed. He offered to address any questions regarding his meetings with the applicant during his employment with the County. Staff recommended approval of the estuary enhancement area due to the conceptual SWFWMD permit. The County is prohibited from regulating mangrove trimming and does not have the authority regarding mitigation. A requirement to remove Brazilian pepper from the wetland does not exist, and there is wetland restoration where the estuary crosses the wetlands.

 Jon Mast, Manatee-Sarasota Building Industry Association, spoke in support of the request due to positive economic impact to West Bradenton.

 Linda Gore commented on mangrove trimming and the mitigation bank.

 Arlene Flisik opposed the request and suggested a stipulation prohibiting no power boats in the estuary enhancement area. She commented on stormwater run-off, jobs, and traffic to the beach.

 Charlie Faulkner commented on the possible increase in traffic if the project is approved and how it will affect access to local hospitals.

 Tim Knowles spoke on naval engineering as it relates to land planning.

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

 During her response to comments, Ms. Moreland noted: (a) the lack of detail on the general development plan (bubble plan) will be shown during the preliminary site plan/final site plan stage; (b) the Lake Flores project was approved with a section of buildings at 95 feet; and (c) there is a stipulation in the staff report regarding the disturbance of historical or archaeological resources.

 Mr. Pride addressed the concept of a wetland buffer immediately adjacent to the existing mangroves.

 Mr. Gerstenberger stated the definition of the Coastal High Hazard Area is the geographic area below the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model, pursuant to applicable law, as updated on a periodic basis.

He elaborated the elevation of the Category 1 storm surge in this particular instance is five feet, and the intent of the post-developed area of the project is to be elevated to an elevation of 13 feet. The project itself would be subject to further review and permitting through FEMA for a FIRM (Flood Insurance Rate Map) revision to exclude the developed portions of the project outside of the 100-year floodplain. This particular amendment to the floodplain would also necessitate an amendment to the Coastal Planning Area, Coastal Evacuation Area and the Coastal High Hazard Area.

RECESS/RECONVENE: 4:54 p.m. – 5:01 p.m. All Commissioners were present.

 During Mr. Vogler's rebuttal, he spoke on the following: (a) changes were made in order to gain staff's approval; (b) this area of the County needs investment, and the project is located in the Southwest County Improvement District; (c) there is a wetland jurisdictional line that is validated by SWFWMD (secondary impacts submitted); (d) wetland impact; (e) Robinson Preserve only has one outfall, and the site has five outfalls; (f) previous approval (minutes of 10/25/05 submitted); (g) archaeological mounds; (h) project design (Exhibits 1 and 2 displayed); and (i) Points of Reference (8/16/17).

BC20170823DOC018

Factual Errors

 Randy Edwards pointed out the circular argument that this mitigation and the mitigation plans that were approved are false. Mitigation is only done when necessary, and the permits are irrelevant, because the County decides what will be approved.

 Larry Grossman stated the SWFWMD conceptual permit was not submitted as evidence, and the applicant continues to use it as evidence. Staff referred to the general development

plan as a bubble plan, which does not have meaning in planning terms.

 Ed Goff stated the green areas referenced on the GIS map were 2007 wetlands. He did not reference them as being current wetlands, but wanted to know what happened to them. It was implied that the tall buildings on the proposed project were adjacent to tall buildings on another project, which is not true. Destruction of wetlands, which would occur by building the canal, cannot justify the mitigation of the same wetlands.

 Sandra Ripberger pointed out that the plan has changed specifically regarding the number of buildings and variable width buffer.

 Karen Willey stated there are three outfalls in Robinson Preserve, and there are no buildings.

Board and Staff Inquiry

Commissioner DiSabatino sought to make her comments at the podium. Ms. Schenk advised against this due to it being unsworn testimony.

 Commissioner DiSabatino noted the proposed request has been compared to Bonita Bay Club and Atlantis and inquired about the number of buildable acres (submitted documentation). She expressed concern with the lack of building elevations and how the County is not equipped with repercussions of approving the proposed project. BC20170823DOC019

 Commissioner Baugh asked about the number of archaeological mounds and if Medallion Homes will be building the project if approved.

Mr. Beruff elucidated the proposed project will take approximately 20 years to build and he would like to proceed to the next step as soon as possible.

 Commissioner Whitmore questioned: (a) stipulating access to the archaeological mounds; (b) if staff concurred with the Points of Reference; (c) if the applicant would be willing to not build the retaining wall; (d) if the applicant would be willing to stipulate no motorized boats in the estuary enhancement area; (e) mitigation bank credits; and (f) impact to seagrass.

 Mr. Vogler agreed to no motorized boats in the estuary enhancement area and acknowledged there will be no seagrass impact.

 Ms. Schenk stated Stipulation A.12 addresses the archaeological mounds. She directed staff to not address questions on the Points of Reference (originated from the applicant).

 Chairman Benac discussed the following: (a) if buildings are required to be shown on a general development plan; (b) the 35-foot height limitation was added to the LDC in 2004 when the first Long Bar Pointe application was submitted; (c) if the buildings in the 2004 approval are set back further than the proposed buildings; (d) the estuary enhancement area (wetland mitigation); (e) whether or not the project will negatively impact the mangrove water quality; (f) mangrove location; (g) Lido Key and estuary canal; and (h) signage at Robinson Preserve.

 Commissioner Jonsson sought clarification on the proposed building locations.

Nicole Knapp, Planning Section Manager, stated buildings taller than 95 feet would have to come back before the Board for approval, and the wall effect will be reviewed during preliminary site plan phase. Building Height Exhibits 1 and 2 were utilized by the applicant in support of the general development plan.

 Commissioner DiSabatino stated the request is incomplete due to a lack of information on the building locations.

Motion – Approval

 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 Baugh moved to adopt Manatee County Zoning Ordinance PDR/PDMU-15-10(Z)(G); Approve the General Development Plan with Stipulations A.1-A.15, 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 Jonsson.

 Commissioner Smith commented on the build-out of the project (20-30 years) and how intentions should be in writing for the future. He expressed concern that the Board will be responsible for approving building height exceeding 35 feet, but not the number of buildings at certain heights.

 Ms. Schenk pointed out Stipulation A.7 addresses building heights.

 Commissioner Whitmore questioned the building heights.

Ms. Knapp read Stipulation A.7 in its entirety: 

Any building in excess of seventy-five (75) feet in height shall be located in the areas identified as orange and pink on the general development plan, and as further depicted by a legal description on the Survey Sketch exhibit(s). A maximum of sixteen (16) buildings with a height between seventy-six (76) feet and ninety-five (95) feet are allowed within the orange and pink areas on the general development plan, and as further depicted by a legal description on the Survey Sketch exhibit(s). This approval does not authorize any building in excess of 95 feet, and any such approval shall require further authorization of the Board of County Commissioners at a properly noticed public hearing. If later approved by the Board of County Commissioners, in accordance with the criteria within the Land Development Code, buildings between 96 and 145 feet in height shall not exceed a total of four (4) (which shall be part of the maximum of sixteen buildings) and shall be located in the pink area shown on the general development plan, and as further depicted by a legal description on the Survey Sketch exhibit(s).

Commissioner Whitmore questioned the 145 feet in Stipulation A.7, and if the stipulation would remain with the land forever.

Discussion ensued about Stipulation A.7 and building heights over 95 feet.

Motion - Withdrawal

The motion was withdrawn by the motioner and seconder.

 Mr. Beruff reiterated Stipulation A.7 was proffered to solve the concern about the building height. He is willing to change the stipulation to state there will be no buildings over 95 feet.

 Ms. Schenk stated she advised Ms. Knapp on amending Stipulation A.7.

Ms. Knapp read revised Stipulation A.7: 

Any building in excess of seventy-five (75) feet in height shall be located in the areas identified as orange and pink on the general development plan, and as further depicted by a legal description on the survey sketch exhibit(s). A maximum of sixteen (16) buildings with a height between seventy-six (76) feet and ninety-five (95) feet are allowed within the orange and pink areas on the general development plan, and as further depicted by a legal description on the survey sketch exhibit(s). This approval does not authorize any buildings in excess of 95 feet.

Upon question, Mr. Beruff agreed with the revision to Stipulation A.7, as read by Ms. Knapp.

Commissioner Whitmore inquired about water quality improvements.

Ms. Schenk advised staff cannot predict the future. The applicant's testimony is that water quality it will be improved and it is the applicant's job to make their representations. The applicant has the water quality study, and staff does not.

Mr. Vogler read the following new Stipulations: 

- A. Motorized boats shall not be permitted in the estuary enhancement area.
- B. Buildings over 35 feet in height shall be located in suitable locations with varying heights and rooflines to provide project view corridors and avoid a walled effect from Sarasota Bay. This shall be approved at preliminary site plan.

Ms. Knapp announced the stipulations as read by Mr. Vogler would be Stipulations A.16 and A.17.

Motion - Approval

 Ms. Schenk noted the motion would be: I move staff's recommended motion with revised Stipulation A.7, as read by Ms. Knapp into the record, and new Stipulations A.16 and A.17 as read by Mr. Vogler into the record. The motion as stated was moved by Commissioner Baugh and seconded by Commissioner Jonsson.

 Commissioner Trace was is not in favor of the 13-foot-high wall and the lagoon.

 Chairman Benac asked if staff calculated the net density. Ms. Moreland confirmed staff did not calculate net density, and that RES-6 and RES-9 would stipulate net density.

Chairman Benac questioned the number of units that have been built-out in the Lakewood Ranch DRI (Development of Regional Impact).

 Clarke Davis, Transportation Planning Division Manager, stated none of the DRIs associated with Lakewood Ranch and Schroeder Manatee Ranch have reached their maximum density as approved in their plans.

Chairman Benac stated it is not unusual for development to not reach the maximum number of units for which they are approved for at the general development plan stage.

Mr. Davis explained in his experience with the DRIs, they typically do not achieve the full development schedule at the general development plan stage. This project reaches the thresholds for a DRI, but satisfies certain criteria that do not require the DRI process. He noted it is uncommon for a development of this size to reach maximum allowed buildout.

Commissioner Smith stated he would not vote in favor of the request.

Commissioner Whitmore asked the motioner and seconder to change their motion to continue the item in order to address concerns.

Motion - Withdrawal

The motioner and seconder withdrew the motion.

 Commissioner Whitmore asked if the applicant would agree to a continuance.

Mr. Beruff agreed to a continuance in order to address Board concerns.

 Chairman Benac stated the continuance date on the calendar is September 29, 2017.

Upon Question, Ms. Schenk pointed out the public comment portion of the hearing has been closed, and the Board is in deliberations.

Motion - Continuance

A motion was made by Commissioner Whitmore and seconded by Commissioner Trace, to continue the public hearing for PDR/PDMU-15-10(Z)(G) to September 29, 2017, at 9:00 a.m., or as soon thereafter as same may be heard.

Ms. Schenk elucidated the item will not be re-advertised unless new information is submitted, which means public comment would have to be re-opened.

Commissioner Smith asked if staff would be allowed to brief the Board with regards to stipulations. Ms. Schenk explained conversations with staff are not ex-parte communications.

Upon question by Commissioner Baugh, Ms. Schenk clarified that meeting with the consultant is not the same as meeting with staff.

Motion - Carried

 The motion carried 6-1, with Commissioner DiSabatino voting nay.

MEETING RECESSED

 There being no further business, Chairman Benac recessed the meeting at 6:43 p.m., until September 29, 2017, at 9:00 a.m.

Minutes Approved: _____