

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING  
COUNTY ADMINISTRATIVE CENTER  
1112 Manatee Avenue West  
Bradenton, Florida  
May 4, 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

All witnesses and staff giving testimony were duly sworn.

 Chairman Benac called the meeting to order at 9:01 a.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

 The Invocation was delivered by Pastor Chuck Carter, Calvary Baptist Church, followed by the Pledge of Allegiance.

**AGENDA**

BC20170504DOC001

Time Certain:


- Item 15, PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLLP & Cargo Partners VIII, Long Bar Pointe LLLP/Aqua by the Bay – 1:30 p.m. or as soon thereafter as same may be heard

Agenda Updates: 

BC20170504DOC002

- Item 10, PA-16-06/Ordinance 17-14, SMR North 70 LLC/Lakewood – Due to an advertising error item will be tabled and heard on May 9, 2017, by the Board of County Commissioners
- Item 11, Ordinance 17-16, Lakewood Centre (DRI 27) – Item to be heard, then continued to May 9, 2017
- Item 12, PDMU-06-30(G)(R4), SMR North 70 LLC and SMR Northwest Land LLC/Lakewood Centre – Item to be heard then continued to May 9, 2017 and additional information from staff attached
- Item 14, LDCT-17-02/Ordinance 17-22, Land Development Code Text Amendment/Airport Zoning – Revised motion to continue the public hearing to June 1, 2017
- Item 15, PDR/PDMU-15-10(Z)(G), Long Bar Pointe LLLP & Cargor Partners VIII, Long Bar Pointe LLLP Rezone/Aqua by the – Request by applicant for additional rebuttal time, supplemental information provided by staff and additional public comments


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

 Sharon Denson sought clarification on whether Manatee County sponsors the Community Emergency Response Team (CERT) program that originated in 2003, and whether the program includes the 12 communities that were originally selected because of their vulnerability within

the County (documentation submitted).

BC20170504DOC003

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


 Discussion took place about Ms. Denson coming forward and informing the Board of the situation, would like responses from the County Administrator, County Attorney, and Public Safety Director, there are monies budgeted for CERT, need to settle this before hurricane season, and the volunteers need an answer.

- 3. **CITIZEN COMMENTS** (Consent Agenda Items)  
There were no citizen comments.

**CONSENT AGENDA**

- 4. **ORDINANCE/MEDICAL MARIJUANA**

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


 A motion was made by Commissioner DiSabatino, seconded by Commissioner Trace, and carried 7-0, to:

- a. Authorize the County Attorney’s office to schedule and advertise proposed Ordinance 17-31, regarding an extension of the temporary moratorium currently in place for a period of 90 days from June 18, 2017, to September 16, 2017, on the establishment and operation of medical marijuana dispensary organizations and medical marijuana treatment centers; and
- b. Authorize the waiver of the requirement of Section 125.664(4)(b)(1), Florida Statutes, to hold a second public hearing on Ordinance 17-31 after 5:00 p.m. BC20170504DOC004

John Barnott, Building and Development Services Director, reported a work session on this issue will be held on May 16, 2017.

**ADVERTISED PUBLIC HEARINGS** (Presentations Upon Request)

- 5. **ORDINANCE/DRI**

 A duly advertised public hearing was held to consider adoption of proposed Ordinance 17-05, Schroeder-Manatee Ranch, Inc./Cypress Banks DRI 17. The Planning Commission recommended approval.


**and**

- 6. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider adoption of proposed Zoning Ordinance Z-86-30(G)(R16), Cypress Banks. The Planning Commission recommended approval with stipulations.

**and**


- 7. **ORDINANCE/DRI**

 A duly advertised public hearing was held to consider adoption of proposed Ordinance 17-06, Schroeder Manatee Ranch, Inc./University Lakes DRI 22. The Planning Commission recommended approval.

**and**

- 8. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider adoption of proposed Zoning Ordinance PDMU-92-01(G)(R16), Schroeder Manatee Ranch, Inc./University Lakes. The Planning Commission recommended approval with stipulations.

 Amanda Lydon expressed concern with the Ordinances 17-05 and 17-06 due to the

County not having the laxity of resources necessary to extend the development phases. The Southwest Water Management District (SWFWMD) has declared a phase one water shortage (cautious usage and possible water restrictions). According to the National Weather Service, all of Southwest Florida is in a D2 Drought, which is defined as severe.

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

**Motion – Ordinance 17-05**



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, the Manatee County Land Development Code, and Section 380.06, Florida Statutes, subject to the conditions of approval established in the Development Order, Commissioner Baugh moved to approve Ordinance 17-05, as recommended by the Planning Commission. The motion was seconded by Commissioner DiSabatino and carried 7-0.

BC20170504DOC005

**Motion – Z-86-30(G)(R16)**



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 approve Manatee County Zoning Ordinance Z-86-30(G)(R16) with stipulations, amending and restating Ordinance Z-86-30(G)(R15); for a project that previously was granted Special Approval for: (1) a project located in the watershed protection overlay; and (2) a mixed-use project in the RES-1 Future Land Use Category; and for a project that was previously granted Specific Approval for an alternative of the Land Development Code Section 1001.4.D.2 (formerly Land Development Code Section 907.9.4.1, per Ordinance 90-01), as recommended by the Planning Commission. The motion was seconded by Commissioner DiSabatino and carried 7-0.

BC20170504DOC006

**Motion – Ordinance 17-06**



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, the Manatee County Land Development Code, and Section 380.06, Florida Statutes, subject to the conditions of approval established in the Development Order, Commissioner Baugh moved to approve Ordinance 17-06, as recommended by the Planning Commission. The motion was seconded by Commissioner DiSabatino. Following discussion regarding the Board being aware of water issues, the Board has to accommodate residents who want to live in the County, and water restrictions, the motion carried 7-0.

BC20170504DOC007

**Motion – PDMU-92-01(G)(R16)**



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 approve Manatee County Zoning Ordinance PDMU-92-01(G)(R16) with stipulations, amending and restating Ordinance PDMU-92-01(G)(R15), as recommended by the Planning Commission. The motion was seconded by Commissioner DiSabatino and following a brief discussion on reclaimed water, water challenges, and agriculture, the motion carried 7-0.


BC20170504DOC008


9. **ORDINANCE/ZONING**





A duly advertised public hearing was held to consider adoption of proposed Zoning Ordinance PDR-15-24(Z)(G), GTIS I VGC LP/Villages of Glen Creek MC-1. The Planning Commission recommended approval with stipulations.


Commissioner Smith disclosed he spoke to Dean Mixon regarding this project and staff addressed his concerns regarding drainage and traffic during the briefing.


 Misty Servia, Planner representing the applicant, while displaying an aerial site plan from the staff report, explained the project site (MC-1) is 5.5 acres and is an expansion of the existing Villages of Glen Creek (229 acres). The larger project (currently under construction) is located within the City of Bradenton whereas the project site (MC-1) is located within the County. The applicant is proposing 21 single-family homes on the project site, and access will be through the larger project. A traffic impact study was completed.


 Discussion took place about the project being subject to County ordinances and laws, costs for impact fees in the City of Bradenton, retention pond is necessary due to flooding in Glen Creek, it will be nice to see newer homes in the area, and coordination with the City of Bradenton regarding drainage.


 Thomas Gerstenberger, Stormwater Engineering Division Manager, noted staff has been coordinating with the applicant's engineer of record regarding the project site and the entire project as a whole. The entire project is being permitted and designed to the County's required 50 percent reduction in allowable runoff rate. In addition, the City of Bradenton recently completed a watershed study identifying 100-year floodplain within this project area, and this project is also being designed to provide floodplain mitigation for Glen Creek.

 Barney Salmon, Building and Development Services, utilized a slide presentation to highlight the project including the general site plan, specific approval requests, and photographs of the project site.

 Discussion proceeded about the City of Bradenton and the County working together on the intersection of 27th Street East and 26th Avenue East, and buffering between the dog facility and the project site (10-foot perimeter buffer).


 Clarke Davis, Transportation Planning Division Manager, reported the applicant was required to submit to the City of Bradenton a cumulative traffic review of the project as a whole (MC-1 plus the larger project). County staff has reviewed this information and shared comments with the City of Bradenton. He noted 26th Avenue East along the south side of the development and 27th Street East on the east side of the development are County roads and staff has reviewed those locations and looked at the types of turn lanes needed at those entrances. No offsite improvements are required and 27th Street East and 26th Avenue East intersection does not require improvements by the County based on the study staff reviewed. The list for half-cent sales tax funds includes improvements to 27th Street East and 26th Avenue East, sidewalks along 26th Avenue East and improvements to 27th Street East, south of the intersection.


 Nicole Knapp, Planning Section Manager, pointed out the presence of a guide dog facility will be included in the Notice to Buyers (Stipulation A.1).


 Discussion continued about the need for extra turn lanes on 30th Avenue East and 26th Avenue East and adding projects to the list for half-cent sales funds.

Mr. Davis reported the 30th Avenue East intersection is within the area covered by 27th Street East improvements. In the half-cent sales tax funds there is an improvement that picks up from


the roundabout at 38th Avenue East and goes through the 26th Avenue East intersection, which will pick up 30th Avenue East. An improvement to 30th Avenue East and U.S. 301 is not included in the half-cent sales tax funds.

 Denise Greer, engineer representing the applicant, explained the city owns the right-of-ways for 26th Avenue East and 27th Street East, but the County maintains them. The applicant had to seek a right-of-way use permit through the County. The applicant wanted to save the trees on 26th Avenue East, and the project has been designed to have an entrance on 26th Avenue East. The traffic study is being worked on for the entire project and the traffic study for Phases 1a, 1b and MC-1 has been completed. Additional turn links into the project have been provided than what is required per the completed traffic study. The traffic study reflects adequate turn lanes on 26th Avenue East.


 Robin Waltz, Florida Dog Guides, Inc., noted dogs are not housed on the property and her concerns were addressed at the Planning Commission hearing (4/13/17).

 Laurie Galle expressed concern with children who will have to walk along 27th Street East in order to attend school on 26th Avenue East due to the lack of sidewalks.


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

 Mr. Salmon stated there are sidewalks on 27th Street East.

 Ms. Greer reported on the lack of sidewalks on the north side of 26th Avenue East from 27th Street East to Louise R. Johnson Middle School. Through the right-of-way use permit, staff has required the applicant to put in sidewalks beyond the boundaries of the project.

 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 Smith moved to adopt Manatee County Zoning Ordinance PDR-15-24(Z)(G); Approve the General Development Plan with Stipulations A.1, B.1, C.1-C.4, D.1-D.2, and E.1-E.2; Adopt the Findings for Specific Approval; and Grant Specific Approval of an alternative to Land Development Code Section 402.7.D.5 (reduction/elimination of greenbelt buffer); and Section 402.7.D.2 (reduction in open space), as recommended by the Planning Commission. The motion was seconded by Commissioner Whitmore and carried 7-0. BC20170504DOC009

10. **ORDINANCE/COMPREHENSIVE PLAN**

 A duly advertised public hearing was opened to consider adoption of proposed Comprehensive Plan Amendment PA-16-06/Ordinance 17-14, SMR North 70 LLC/Lakewood Centre. The Planning Commission recommended approval. Item was tabled and to be heard on May 9, 2017.

**and**

11. **ORDINANCE/DRI**

A duly advertised public hearing was opened to consider adoption of proposed Ordinance 17-16, Lakewood Centre DRI 27. The Planning Commission recommended approval. Item to be continued to May 9, 2017

**and**

12. **ORDINANCE/ZONING**

A duly advertised public hearing was opened to consider adoption of proposed Zoning Ordinance PDMU-06-30(G)(R4), SMR North 70 LLC/SMR Northwest Land LLC/Lakewood Centre. The Planning Commission recommended approval with stipulations. Item to be continued to May 9, 2017

There being no public comment, Chairman Benac kept public comment open.

**Motion - PA-16-06/Ordinance 17-14**

A motion was made by Commissioner Jonsson, seconded by Commissioner Whitmore and carried 7-0, to continue the public hearing for PA-16-06/Ordinance 17-14 to May 9, 2017, at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Building, first floor chambers. BC20170504DOC010


**Motion - Ordinance 17-16**


A motion was made by Commissioner Jonsson, seconded by Commissioner Baugh and carried 7-0, to continue the public hearing for Ordinance 17-16 to May 9, 2017, at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Building, first floor chambers. BC20170504DOC011

**Motion - PDMU-06-30(G)(R4)**


A motion was made by Commissioner Jonsson, seconded by Commissioner Baugh and carried 7-0, to continue the public hearing for Zoning Ordinance PDMU-06-30(G)(R4) to May 9, 2017, at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Building, first floor chambers. BC20170504DOC012

13. **ORDINANCE/COMPREHENSIVE PLAN**


 A duly advertised public hearing was held to consider transmittal of proposed Comprehensive Plan Amendment PA-16-05/Ordinance 17-13 (fka 16-41), County-Initiated Text Amendment Educational Facilities. The Planning Commission recommended transmittal. Item was continued from January 5, 2017


 Kathleen Thompson, Planning Manager, stated this item was continued in order for it to be addressed at the last Council of Government meeting (1/31/17).

Commissioner Smith requested a presentation due to a concern about the placement of a school in Parrish and future schools.


 Ms. Thompson stated the language that is proposed for the plan amendment comes directly from the Interlocal Agreement with the School District and the amendment does not affect any school in particular.

Chairman Benac elucidated the process for the school in Parrish has taken place.


 John Barnott, Building and Development Services Director, stated the Interlocal Agreement has been in effect since 2008. The amendment allows the School Board flexibility to place types of applications such environmental laboratory, shooting range, a police driving pad and other similar types in certain zoning and future land use designations.


 Discussion continued about previously approved Interlocal Agreements need to be revisited for clarity and updating, concerns with additional language in Policies 2.2.1.7.2, 2.2.1.25, and 2.2.1.19.2, increasing the length of pick-up/drop off lanes, encouraging


students to take school buses, unsure of how the conservation easement would be affected by this plan amendment, and industrial heavy.

 Sarah Schenk, Assistant County Attorney, stated this is a transmittal hearing and there will be a 30-day comment period.

Discussion continued regarding industrial heavy and the building of schools.

 Amanda Lydon pointed out the vagueness of the language in the amendment.

 Mike Pendley, Executive Planner, Manatee County School District, explained the County Commission is required to clarify and correct any inconsistencies between the 2010 Amended and Restated Interlocal Agreement and the Comprehensive Plan. The Interlocal Agreement states public schools are an allowable use in all future land use designations except heavy industrial, conservation and preservation. However, public schools may be allowed in those designations at the discretion of Manatee County. The School District is not planning to build elementary schools in areas near batch plants. He requested approval of the request.


 Discussion proceeded about vocational components in schools, the School District would like flexibility, Comprehensive Plan language is normally vague and the Board has to include a range of uses, need to look at the Interlocal Agreement with the School Board, and what if a resident would like to open up a school.


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

Based upon the evidence presented, comments made at the public hearing, the technical support documents, the action of the Planning Commission, and finding the request to be consistent with the Community Planning Act, as codified in applicable portions of Chapter 163, Part II, Florida Statutes, and the Manatee County Comprehensive Plan, Commissioner Trace moved to Transmit Plan Amendment PA-16-05, as recommended by the Planning Commission. The motion was seconded by Commissioner Jonsson and carried 6-1, with Commissioner DiSabatino voting nay (expressed concerns during discussion). BC20170504DOC013

**ADVERTISED PUBLIC HEARINGS** (Presentations Scheduled)


14. **ORDINANCE/LAND DEVELOPMENT CODE**

 A duly advertised public hearing was opened to consider adoption of proposed LDCT-17-02/Ordinance 17-22, Land Development Code Text Amendment, Airport Zoning. The Planning Commission recommended approval. Item to be continued to June 1, 2017.


 Sarah Schenk, Assistant County Attorney, reported after this item was placed on the agenda, staff discovered that a legal challenge was filed regarding Ordinance 17-03, Airport Impact Overlay Text and Map Amendment (3/2/17). Staff feels they can legally defend the challenge and it may be resolved quickly. She recommended continuing the item to June 1, 2017, and advised the Board to not comment or address concerns until the next public hearing.

Lisa Barrett, Planning Manager, submitted an objection letter from Peter R. Logan.


There being no public comment, Chairman Benac closed public comment (public comment deferred until the next hearing for anyone who signed up).

 Commissioner DiSabatino moved to continue the public hearing for LDCT-17-02/Ordinance 17-22 to June 1, 2017 at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Building, First Floor Chambers. The motion was seconded by Commissioner Trace and carried 7-0. BC20170504DOC014


### COMMISSIONERS' COMMENTS

Commissioner Smith 


- Acknowledged the Code of Ethics training (5/1/17) was informative and questioned which County employees have to take the ethics training. He complimented the County Attorney's office for presenting the training.

 Sarah Schenk, Assistant County Attorney, stated Elected Officials and Attorneys receive continuing education credits for the ethics training and that employee training is voluntary. Chairman Benac explained County Planners also receive continuing education credits for taking ethics training.

- Noted the Opioid Work Session at the Bradenton Area Convention Center (5/2/17) was educational and enlightening, but additional seating is needed for future work sessions. Chairman Benac stated the organizers liked the setup and that it was better than the work session in Palm Beach County. The work session for Charter Government (6/14/17) will be held at the Bradenton Area Convention Center. Discussion ensued about seating and using a larger room
- Reported he toured a medical marijuana dispensary and Virginia Delegal was appointed as the Executive Director for the Florida Association of Counties.

 Commissioner DiSabatino pointed out for the application process in which the Board has to vote, a "short list" of recommendations is subject to Sunshine Law requirements. Any gift that has a value of \$100 or more must be reported.

Discussion ensued about Commissioner Smith not being informed about all of the applicants, transparency, questions regarding the procurement process can be addressed in a work session, and employees should be aware of laws regarding the acceptance of gifts.


 Mitchell O. Palmer, County Attorney, explained anyone in County government should think twice about accepting cash gifts.

 John Barnott, Building and Development Services Director, stated the issues being discussed are addressed in personnel procedures and management is required to take extensive training. All County staff operate under the ACE (Accountability, Civility and Ethics) Mantra.


Commissioner Smith questioned who is mandated to attend ethics training.


Mr. Palmer stated it is not mandated by Florida Statutes for staff to attend ethics training.


Chairman Benac explained at the ethics training it was discussed that for the procurement process, eliminating applicants has to be done in an advertised meeting, which evoked concerns on whether or not the County is complying with the Sunshine Law in the hiring process.

 Ed Hunzeker, County Administrator, stated he is sure Rodney Barnes, Human Resources Director, is aware of the statutory requirements for eliminating applicants.



 Mr. Hunzeker noted any offer of a gift requires a form to be completed, which is submitted to him for approval. The form is recorded and retained for the record.


 Chairman Benac read policy into the record:  
No County officer or employee shall solicit or accept anything of value to the recipient such as a gift (including Christmas gift), favor, loan, reward, promise of future employment, preferred service, benefit, or concession that would reasonably tend to improperly influence the officer or employee in the discharge of his or her official duties or give the appearance of improperly influencing the officer or employee.

 Commissioner DiSabatino reported the personnel policy is only on the intranet and suggested adding it to the County's website for public viewing.

She questioned if the Request for Proposal (RFP) for the headhunter was subject to the Sunshine Law and if minutes were taken.

Mitchell O. Palmer, County Attorney confirmed minutes were kept for the RFP meeting and Commissioners can see Melissa Wendel, Purchasing Director.

Mr. Hunzeker noted during the new employee orientation, ethical behavior and the ACE Mantra are discussed in detail.

 Commissioner Smith inquired if a commissioner-elect is subject to Sunshine Law requirements and about a potential candidate accepting gifts.

Mr. Palmer stated the commissioner-elect would be subject to Sunshine Law. He explained that he is not in the position to dispense legal advice to any political candidate in terms of running their campaign and monies they accept. He will decline assisting any Commissioner seeking an answer to questions regarding their campaign. A commissioner-elect can seek advice from him regarding their ethical obligations.

Commissioner DiSabatino clarified the personnel policy is located under the Human Resources Department link on [www.mymanatee.org](http://www.mymanatee.org). She noted at the ethics training it was stated that a commissioner-elect could dialogue with the current commissioner, because they would not be serving on the same board.

Commissioner Trace 

- Asked for Commissioner DiSabatino keep the Board abreast about CERT
- Stated there will be a lot work on infrastructure before the proposed high school in Parrish can be built (to be located at Erie Road and Martha Road)

Commissioner Baugh 

- Stated a question was posed to her about whether the County Attorney can assist a potential candidate. Mr. Palmer stated it would not be appropriate for him to involve himself in political campaigns, and his office is obligated to respond to public records requests.

Chairman Benac 

- Attended the Public Safety event on behalf of the Board

- Reported Karen Windon, Deputy County Administrator, received an award from SRQ Magazine
- Announced free mammograms are being offered through We Care Manatee

Commissioner Baugh

- Announced she was awarded the Best Elected Official award from SRQ Magazine

Commissioner Whitmore 

- Thanked the owner of Aqua Plumbing for his generosity in assisting a terminally ill patient


Commissioner DiSabatino

- Thanked residents for their concern regarding her sister


**RECESS/RECONVENE:** 11:28 a.m. – 1:31 p.m. All Commissioners were present.

(Court Reporter, Diana Kelly, was present)


15. **ORDINANCE/ZONING**

 A duly advertised public hearing was held 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 approval with stipulations.


BC20170504DOC015, BC20170504DOC016  
BC20170504DOC017, BC20170504DOC018

 Commissioner Whitmore announced she will be abstaining from voting on this item (statement and Form 8B, Memorandum of Voting Conflict, were submitted). BC20170504DOC019

Commissioners Baugh, DiSabatino, Jonsson, Smith and Whitmore disclosed receiving numerous emails and inquiries regarding the matter but did not respond.

 Chairman Benac disclosed: (a) receiving a phone call from the applicant about not receiving comments in a timely manner, which was passed on to staff; (b) receiving a comment during the review process about when the County Attorney comments would be available, which was also passed on to staff; (c) someone at the East County Republican Club questioned why this project was being heard again by the Board of County Commissioners, and she responded the previous request was a Comprehensive Plan Amendment. She asked Ms. Schenk to address this question; and (d) opening an email from an applicant requesting that she sign in to open an attachment, which was a map from the Southwest Florida Water Management.


Commissioner Trace had lunch with the applicant, Carlos Beruff, a few weeks ago and this matter was not discussed.

 Sarah Schenk, Assistant County Attorney, stated due to the fact this is a large project application it is important to know that the Board will focus on the whether the project as a unified project is consistent with the Comprehensive Plan and the Land Development Code. Recommendations from the Planning Commission and staff are important but are not binding on the Board. The generalized statements for arguments in email or testimony to this effect for or against the application, political or ideological arguments, personal attacks, popular opinions and/or threats of lawsuits are not a legal defensible basis for this decision. This hearing is not about dredging as the County does not have jurisdiction over dredging. The County also does not have jurisdiction over mitigation banks, stipulations in Department of


Environmental Protection permits, the Army Corps of Engineers, or other Federal/State permits. The quasi-judicial process allows all interested parties to submit evidence in support of their position, and such evidence is subject to the requirements for public participation and the first amendment. The County Attorney's office advises to err in favor of participation of fairness whenever possible. Due to the complexity of large projects, testimony often requires expert qualifications to meet the confidence substantial evidence test. The applicant and staff have qualified experts and interested parties may bring experts too. If a citizen feels they have an expert opinion they should state their qualifications for the record if they want their testimony to be considered more than mere factual opinion. The Board's procedures (Resolution R-16-068, Exhibit A) require civility, and rules of conduct are outlined in Section 5.4.2 of the procedures. Quasi-judicial public hearings are expected to be handled like a trial in a courtroom (rules were reviewed). Due process requires the right to pose questions through the Chair. Persons should ask the chair during their testimony what questions they want to ask and to whom they are directed when they are speaking. The questions are being written down as they are spoken and either directed to staff or the applicant to answer during the appropriate time. The County Attorney's office does not provide testimony, only legal advice. A decision for or against a proposal cannot be based on County Attorney remarks under case law. The County Attorney's office does not invest in particular outcome of the decision nor influence the recommendation of staff. The County Attorney's office does have the responsibility to make sure that whatever decision is issued (for or against), that it follows the standards and procedures so that the ultimate outcome is legally defensible.

Upon request, Ms. Schenk summarized the history of Long Bar Pointe. The proceedings in 2013 were legislative, not quasi-judicial. There were two items: (a) a text amendment to Comprehensive Plan PA-13-06, which was privately initiated by the property owner and was countywide. The Board decided not to transmit the text amendment to the State agencies for review on August 6, 2013; and (b) a map amendment to the Comprehensive Plan PA-13-03, which was privately initiated and the Board voted to transmit the amendment to the State agencies for review. An adoption hearing was not held for the map amendment, because it was withdrawn by the applicant.

She asked to staff to confirm if there are adequate seating accommodations for citizens and noted staff does have possible continuance dates for citizens who do not get to speak at this hearing.


 Nicole Knapp, Planning Section Manager, noted seating capacity has been reached in the lobby, and on the third and fourth floors.

Chairman Benac stated the meeting will recess at 7:30 p.m. and citizens who are unable to speak today will be given the opportunity to speak tentatively on May 17, 2017, at 2:00 p.m., and if necessary on May 31, 2017, at 9:00 a.m.


 Commissioner DiSabatino requested Ms. Schenk repeat what the Board does not have jurisdiction over from her previous comments.


 Stephanie Moreland, Building and Development Services, introduced the applicant.


Ms. Schenk pointed out the applicant requested additional rebuttal time but not presentation time (submitted with the agenda update memorandum).

 Edward Vogler, attorney representing the applicant, made introductory comments including the applicant has not requested any specific approvals. He submitted points of reference sheet and exhibits. The applicant has read the public comment letters and many of them contain incorrect information. He noted there will be no impact to wetlands, submerged lands, bay bottoms, and mangrove impacts (an upland retaining wall map was displayed).


BC20170504DOC020


 Misty Servia, planner representing the applicant, relayed she has 29 years of experience and stated her role in the project was to review the project in accordance with the Comprehensive Plan and the Land Development Code to ensure it that complies with all of the rules.

 John Cavoli, project engineer representing the applicant, stated Sarasota Bay is an Outstanding Florida Water and based on all regulations, both with the County and the Southwest Florida Water Management District (SWFWMD), the applicant is required to provide 150 percent of treatment of runoff for such a project. Currently, there is no stormwater facility that serves this agricultural property and therefore, Sarasota Bay will be the beneficiary of such a system once the project is developed.

 Alec Hoffner, environmental consultant representing the applicant, outlined his educational and professional background. He reported he has been on the property and is aware of the habitat and current site conditions. The environmental aspects were discussed including having the recommendation for approval by staff and lack of mangrove trimming on the property. He highlighted the project site (exhibits and photographs displayed). The applicant has obtained a mitigation permit from SWFWMD, which requires the applicant go through a Uniform Mitigation Assessment Method (UMAM) analysis. All of the impacted wetlands scored a UMAM of .4 or less and they are all considered degraded by SWFWMD. The mitigation being proposed, which is the estuary enhancement area provides an excess of 3.43 credits, which is twice what is needed to offset the proposed impacts. The environmental impacts of the project include no impacts to mangroves or seagrasses, creation of the estuary enhancement area, enhancing and preserving large areas of uplands, freshwater marsh, mangrove swamp and 294 acres of seagrass.


BC20170504DOC021

 Upon question from Chairman Benac, Ms. Schenk stated the applicant has the burden of proof to demonstrate compliance with the Comprehensive Plan and the Land Development Code. If the applicant meets that burden, then the burden shifts to those who oppose the project to show how it is not a public interest to approve the project and where there is non-compliance.


 Discussion ensued on stormwater management system (flushing and discharge), will the applicant seek a mangrove pruning permit, depth of the estuary enhancement area, excavation versus dredging, clarification on comment from Mr. Vogler regarding tall buildings, renderings are included with the staff report, compatibility, gated or private community (two community development districts have been formed and spine roads that are public and neighborhood roads that are private), how will the applicant address transportation issues and improvements, no negative impact on mangroves, seagrass, meandering lagoon/estuary, applicant owns submerged lands, total acreage of submerged lands versus upland for purposes of density calculations (document submitted by Mr. Vogler), purpose of the estuary enhancement area (22 acres), the estuary enhancement area will be built in the 50-foot required buffer, mangroves will not be impacted by the estuary enhancement area, setback between the mangrove and the estuary enhancement area, rim-

ditch program, will there be treatment of agricultural ditches (agreements referenced are Exhibits 1 and 2 of the exhibits from Mr. Vogler), staff report states two buildings that will be over 35 feet in height (applicant clarified there will be two building types), building setbacks from the retaining wall, eco-enhancement area part of the open space, signed and sealed wetland survey that has been approved by the agencies, why is an upland retaining wall needed, the height of the upland retaining wall, rookery, dredging versus excavating, the applicant is not asking for approval of docks (docks are an ancillary use), the applicant is asking for two different building types (145 feet and 75 feet) to be located in the center of the project, the applicant is proposing a crystal lagoon (photo displayed), what is the applicant entitled to today (currently have final site plan approval for Parcel F for 252 condominium units and a portion near Legends Bay for 200 units), applicant is asking for a general development plan for the whole parcel, does the applicant have any permits in place today, at this stage the applicant does need to have the number of proposed buildings, variable width upland buffer, community development district would maintain the roads, any pending litigation on this property, Harbour Isle on Anna Maria Sound (Minto Bradenton LLC is the developer), SWFWMD permit for the lagoon does not allow anything such as a boat, project should not have any direct impact on grassflats, the applicant has not committed to no mangrove trimming (would require a permit), the engineer has not designed the retaining wall yet, who will own the estuary enhancement area (homeowners association or community development district), any single-family lots that have frontage will be able to construct a dock but it will not be a community dock, can single-family homeowner that owns up to the enhancement area build a dock in the enhancement area (depends on whether or not it is part of the mitigation for the permit or not); Brazilian pepper wetlands attached to the mangrove, maintain or increase the amount of native habitat in the Coastal Planning Area (Comprehensive Plan Objective 4.1.2), prohibit the alteration of the coastal wetland habitat except for instances of proposed water-dependent uses and cases of overriding public interest, such as natural resources restoration activities (Comprehensive Plan Policy 4.1.2.2), required buffers larger than 50 feet adjacent to environmentally sensitive coastal wetlands as necessary to prevent degradation due to proposed development and to discourage trimming and loss of habitat (Comprehensive Plan Policy 4.1.2.5), how will the applicant offset the higher heights, Lake Flores was approved for six stories and IMG was approved for eight stories with three buildings that are masked together, height for the proposed buildings is done so by feet (Riviera Dunes and Lakewood Ranch), living breathing seawalls, the retaining wall be above the mean high water elevation, Riviera Dunes is in a special tax district, troubling not knowing the exact number of buildings and exact height of the buildings, the number of units per building, and How Will We Grow Study speaks of the need for more height in the County.

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
 Carlos Beruff, applicant, stated the retaining wall will be made up of the same material utilized in The Inlets project (located on S.R. 64) on the Manatee River.

**RECESS/RECONVENE:** 3:32 p.m. – 3:45 p.m. All Commissioners were present.

 Ms. Moreland utilized a slide presentation to review the request including Coastal High Hazard Map, RES-9 Future Land Use Category, Coastal Planning Area, Coastal Evacuation Area, special approval requests, zoning map, portion of the project is in the Urban Service Area, history of the site, the request (general development plan for a large project, commercial component, residential component, recreational amenities, private docking facilities), site characteristics, the general development plan, density, intensity, typical minimum lot sizes, minimum setbacks, building height proposed, transportation, open space, education, police and fire protection, photographs of the site, positive aspects, public concerns, and compatibility. Staff recommended approval and additional public comment


was submitted.

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 Joel Christian, Building and Development Services, relayed his professional background and education. He submitted Environmental Review and Presentation Exhibits and made use of a slide presentation to discuss proposed project information (wetlands, ecosystems management plan, wetland density transfer, wetland buffers, estuary enhancement area, submerged lands, threatened and endangered species), and Comprehensive Plan review (conservation element and coastal element).


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 Michelle Pfeiffer and Lauren Floyd, County Consultants, Coastal Planning & Engineering, Inc., summarized the Coastal Processes Review Memorandum (4/20/16) and their perspective on what could happen.

 There was discussion about documents reviewed by Coastal Planning & Engineering, Inc., there is no pending litigation on this project but on an unaffiliated project, Ms. Pfeiffer stated she has seen this type of water body under a different name (not estuary enhancement area), and concern that the retaining wall will negatively impact the mangroves.

Upon question, Mr. Vogler stated the applicant does not have any questions for the consultants.

 Discussion about the staff report (pages 1 and 3 of 57) referencing private docking facilities, residents who have waterfront property can apply for a dock permit, the project site is within the Coastal Planning Area and partially in the Coastal Evacuation Area and the Coastal High Hazard Area, will buildings be allowed in the Coastal High Hazard Area (zoning map from staff report displayed), staff reviewed the request for two buildings (one at 75 feet and one at 145 feet, see page 7 of 57, staff report) whereas the applicant proposed two different multi-story products (see page 3 of 24, September 2016 large project narrative), two different building types were not discussed at the Planning Commission (4/13/17), access points along El Conquistador Parkway, was the traffic analysis used to analyze the number of lanes for El Conquistador, site design details (page 9 of 57, staff report), how much of requested open space is water, does the Fire Department have the capability to fight fires for tall buildings, staff has stipulated for an overall layout of the entire project shall be submitted with future preliminary and final site plan submittals (Stipulation A.11), utilities being above or below the ground, interconnectivity, roadway buffer along El Conquistador, Urban Service Area, and policies and objectives of the Comprehensive Plan (page 24 of 57, staff report).

 Clarke Davis, Transportation Planning Division Manager, reported El Conquistador Parkway is designated as a four-lane arterial roadway and has planned right-of-way width of 120 feet.

 Nicole Knapp, Planning Section Manager, clarified the staff report is identical to what was presented to the Planning Commission and until two days ago staff understood there were two buildings not two building types.


Deliberations ensued about the buildings.


**RECESS/RECONVENE:** 5:20 p.m. – 5:41 p.m. All Commissioners were present.


Public Comment  
(Public Comment sheets for those who did not speak)

BC20170504DOC025


BC20170504DOC026

 Cynthia Finn opposed the request due to its possible impact on Sarasota Bay


 Barbara Walker, representing Audubon Florida, stressed the importance of preserving the shoreline, mangroves, sea wall, bald eagles and their nests, and air quality. She suggested the item be continued until all issues are addressed or more stakeholders are incorporated into the plan.


 Andy Mele relayed his educational and professional background. He quoted the Coastal Element of the Comprehensive Plan, Goal 4.1: Protection, preservation, and enhancement of the natural resources of the Coastal Planning Area to provide the highest environmental quality possible. Aqua by the Bay contains the longest natural shoreline left on Sarasota Bay and supports the finest mangrove and seagrass ecosystem on the bay, the best fishery and a huge bird sanctuary. The general development plan and zoning ordinance should be denied due to the proposed lagoon and seawall threatens the mangrove coast and violates multiple County codes, the plan is incomplete, because it does not include every activity proposed on the property, and the proposed building heights violate the Land Development Code and are incompatible. He displayed a board of what the request would like look if built with 24 buildings at 145 feet.

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 Sandra Ripberger, representing the Bradenton Book Club, stated there are 1,500 online petitions against this project and submitted printed petitions. She commented on the lagoon, the report from the Coastal Planning & Engineering, Inc., the seawall, coastal wetlands, and mangrove trimming.


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 Kendra Richardson, marine biologist, concurred with Ms. Ripberger's comments and relayed her educational background. She expressed concern with the shoreline stabilization, the project being an alteration to the shoreline, impacts to the tidal shore, and the lagoon impact on the mangroves. This project is not in the best interest of the County, the local environment, and the surrounding areas.

 Jack Merriam, representing the Sarasota Bay Foundation, Inc., utilized a slide presentation to discuss his education and work history, an excerpt of the evaluation of current stormwater design criteria within the State of Florida, commercial low impact design, atmospheric deposition, hardened versus living mangrove shoreline, the lagoon will create an island out of the mangroves, sea level rise, net benefits and water quality.

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 Larry Grossman, representing residents of Longboat Key, relayed his work history including the review of large projects. He pointed out the Board is reviewing two plans (a rezone and a general development plan), which should have been heard as two different applications. He commented on the height, lack of an analysis on the benefits of commercial, and logistics on the lagoon.


 Jane von Hahmann, representing F.I.S.H. (Florida Institute of Saltwater Heritage), explained Cortez Village is the oldest fishing village in the County and having a 65-foot-high bridge as proposed by the Florida Department of Transportation and this project could devastate Cortez Village. She displayed a slide presentation and a concept plan to discuss the differences between the 2004 project and the current project: in 2004, the request for 7-story buildings (7 buildings in total) and today the request is for 12-story buildings (approximately 24 buildings); the lack of conceptual architectural drawings, elevations and


plan views, showing the buildings and their relationship on the property; lack of height comparisons with nearby developments; and negative aspects. She noted the project is too intense for the area, and will impact the commercial/recreational fishing, ecotourism and sea life. The Board cannot deny the applicant the ability to development the property within the confines of the Comprehensive Plan and Land Development Code. In the staff report (page 5 of 57, under history), the statement regarding the deletion and replacement of Stipulations 1-3 is incorrect. Stipulation 2.B.6(7), which pertained to transportation, was changed at this hearing. She submitted materials.

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 Mr. Vogler inquired when he could question witnesses.

Ms. Schenk noted the witness should be questioned at the hearing since the witness may not be present at any future hearings.

 Mr. Vogler posed the following to Chairman Benac for response from Ms. von Hahmann: Is it not true that the 2004 project was approved for 258 units, which is less than 10 percent of the project size proposed today? Was the project located and approved outside of the area that was limited for tall buildings? Ms. von Hahmann concurred with Mr. Vogler with the exception of the location of the tall buildings.

 Joe McClash, representing Suncoast Waterkeepers, suggested the Board deny the request due to the significant impacts on the last remaining shoreline. He utilized a slide presentation to discuss how the site has many parts, the past plans are still the future plans, in the future the applicant will dredge the canal for the lagoon from the mitigation bank, the SWFWMD permitted plans depict orange areas, which are the areas to be dredged and filled, the red areas on the same plans are not in the mitigation bank plans since it allows the wetlands and seagrasses to be dredged in the future, and the blue areas on the same plans representing the lagoon, which consists of some wetlands to be dredged and filled, and Judge Lakin's order. He presented a recommended motion with findings of fact, to find the project inconsistent.


BC20170504DOC031

 Stuart Smith, representing the Sierra Club, submitted documents and utilized a slide presentation to point out the general development plan as proposed fails to meet County standards. Land Development Code Sections 312 and 321 gives the Board the right to rely on the accuracy and completeness of a general development plan in order to make an informed decision. This entitles the Board to a plan that depicts all activities proposed and how they relate to each other. Nothing should be omitted or be different from anything else given to other parties. The Army Corps of Engineers and the Department of Environmental Protection have proposals for mitigation banks that enable more than a linear mile of mangrove trimming. The Planning Commission was told that a State Conservation Easement will ensure that nothing could ever happen to the mangroves, but the easement itself assures mangrove trimming. The easement forbids the Board from imposing regulations or requiring permits on the operation of the mitigation bank. The applicant said dredging the lagoon will create 13 acres of unavoidable impacts, but all of the mangroves will be affected by the lagoon and seawall. The impacts are not unavoidable. The general development plan does not include a wetland impact statement as required by Section 706.4, Land Development Code, to show that the applicant ever considered any other alternatives or cannot make reasonable use of the land without the lagoon, which is optional. Stipulation A.6 allows the elevations to be provided at final site plan stage, which means there will not be a public hearing. He suggested the Board deny the motion to rezone as long as it contains a general development plan that is not complete or accurate enough to make an informed decision. The Board also





has ample reason to deny the finding of compatibility for the tall buildings, because the applicant would be in violation of the Land Development Code if he built the buildings without it.


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 Jeff Grove, Tidy Island resident, displayed a rendering and expressed concern with public safety because of the applicant's plans to install a seawall with unknown materials.


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 Bruce Kurtz, Tide Island resident, relayed his professional background. He utilized the same rendering displayed by Mr. Grove to address his concern with storm surge and the seawall.

 Stafford McClean, representing the Tidy Island Board, spoke on storm events, post storm reconstruction, building heights, compatibility, and the retaining wall


 Captain Kathe Fannon, commercial fisherman, opposed the request due to the possible danger to the shoreline and the effects on environment and traffic.

 Chairman Benac requested the County attorney address any issues before the Board takes action.


 Sarah Schenk, Assistant County Attorney, stated the lack of clarity at the Planning Commission hearing (4/13/17) regarding the number of buildings changes the intensity use, which could create a legal risk. The Board does have the option to remand this item back to the Planning Commission and the Board has the right to ask for additional information to be submitted by the applicant, which can also be given to the Planning Commission.


Chairman Benac requested clarity on Land Development Code, Section 402.7.D.9 (Building Height), which was read by Nicole Knapp, Planning Section Manager: The Board shall make a determination that the proposed development is compatible with the surrounding area and will not create any external impacts that would adversely affect surrounding development, existing or proposed, waterfront vistas or entranceways. An applicant requesting an increase in building height over thirty-five (35) feet, shall provide, at the time of public hearing, conceptual architectural drawings, elevations and plan views, showing the buildings and their relationship on the property.

Chairman Benac expressed concern with the proposed buildings and their relationship to the property. Ms. Schenk pointed out the applicant should be allowed to address both points: the need for additional information and the project being remanded back to the Planning Commission.

 Mr. Vogler stated he heard the questions and if the Board would like to remand the project back to the Planning Commission, the applicant would not object. The applicant would like this project to be treated like other projects.


Ms. Schenk reported the public hearing should be continued to no date certain and re-advertised, and remanded back to the Planning Commission.


 Mr. Beruff requested staff expedite the hearing date for the Planning Commission. The project is proposed for two types of buildings that might be used multiple times.

 Ms. Schenk read Land Development Code Section 320.2.a, General Development Plan Review Required for Planning Development: General development plans shall be required in connection with applications for Planned Development zoning, for all Planned Development projects on property which is zoned for Planned Development but which have no plan approval, Large Projects, and Developments of Regional Impact. An applicant may be required to proceed directly to preliminary site plan approval where the Board determines a General Development Plan will not provide adequate detail to assure compliance with this Code and the Comprehensive Plan.

She explained the Board has legal authority in the Land Development Code, to state as part of the motion that you request the applicant to submit building elevations or more detailed information on the building heights and number of buildings.

Chairman Benac requested more information on how many buildings, how high the buildings are going to be and generally where the buildings will be located in order to figure out if they meet Land Development Code standards. She asked staff to look at what kind of information we got on the other projects to make sure there is consistency with the standard we required for those.

 Commissioner Smith concurred with Chairman Benac's comments.

 Commissioner DiSabatino requested information from SWFWMD, information from 2004, a matrix of similar surrounding properties, and a plan of the height of the buildings.

Ms. Schenk read the proposed motion: A motion to continue the public hearing for PDR/PDMU-15-10(Z)(G) to no date certain and re-advertised along with a motion to remand it back to the Planning Commission for further proceedings consistent with this discussion.

The motion as read by Ms. Schenk was moved by Commissioner DiSabatino, seconded by Commissioner Smith and carried 6-0, with Commissioner Whitmore abstaining.

**ADJOURN**

There being no further business, Chairman Benac adjourned the meeting at 7:42 p.m.

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