STAFF REPORT
COLLIER COUNTY PLANNING COMMISSION

TO: COLLIER COUNTY PLANNING COMMISSION
FROM: GROWTH MANAGEMENT DEPARTMENT/ZONING DIVISION, COMPREHENSIVE PLANNING SECTION

HEARING DATE: February 20, 2020

RE: PETITION CPSS-2019-03/PL20180002792, SMALL SCALE GROWTH MANAGEMENT PLAN AMENDMENT (Companion to PUDZ-PL20180002793) [ADOPTION HEARING]

ELEMENT: FUTURE LAND USE ELEMENT (FLUE)

AGENT/APPLICANT/OWNER(S):

Agents: Robert J. Mulhere, FAICP, Vice President
Holes Montes, Inc.
950 Encore Way
Naples, FL 34108

Richard D. Yovanovich, Esquire
Coleman, Yovanovich, & Koester, P.A.
4001 Tamiami Trail North
Suite 300
Naples, FL 34103

Applicant/Owners Kevin Dugan
Dugan’s Lighthouse Inn, LLC & Buzz’s Lighthouse, LLC
9140 Gulf Shore Drive
Naples, FL 34108

GEOGRAPHIC LOCATION:

The subject property comprises ±0.622-acres and is located at the northeast corner of the intersection of Gulf Shore Drive and Southbay Drive, in Section 32, Township 48 South, Range 25 East (North Naples Planning Community).
REQUESTED ACTION:

The applicant proposes a small-scale Comprehensive Plan amendment to the Future Lane Use Element (FLUE), specifically to create a new subdistrict, Vanderbilt Beach Commercial Tourist Subdistrict, within the Urban Designation, Urban – Commercial District. The applicant also proposes to amend the countywide Future Land Use Map (FLUM) and create a new map (“Vanderbilt Beach Commercial Tourist Subdistrict”) in the FLUM series of the FLUE, to identify the newly created Subdistrict.

The proposed amended Subdistrict text is as follows:
(Single underline text is added, single strike-through text is deleted, and is also reflected in the Ordinance Exhibit A).

FUTURE LAND USE DESIGNATION DESCRIPTION SECTION

*** *** *** *** *** *** TEXT BREAK *** *** *** *** *** *** ***
I. URBAN DESIGNATION

C. Urban Commercial District

14. Seed to Table Commercial Subdistrict

15. Vanderbilt Beach Commercial Tourist Subdistrict

The Vanderbilt Beach Commercial Tourist Subdistrict is located at the northeast corner of the intersection of Gulf Shore Drive and Southbay Drive, in Section 32, Township 48 South, Range 25 East. The Subdistrict is ±0.622 acres in size. The purpose of the Subdistrict is to allow commercial uses as identified below.

a. Allowable uses are limited to:
   1. Hotels and motels, limited to 17 rooms; and
   2. Permitted and conditional uses set forth in the C-3, Commercial Intermediate, zoning district in the Land Development Code, not to exceed 7,000 square feet.

b. Rezoning is encouraged to be in the form of a PUD, Planned Unit Development, zoning district.

PURPOSE/DESCRIPTION OF PROJECT:

The purpose of this Growth Management Plan Amendment is to create text and a map for a new subdistrict, Vanderbilt Beach Commercial Tourist Subdistrict. The subdistrict will establish hotel/motel uses (limited to 17 rooms) and permitted and conditional uses set forth in the C-3, Commercial Intermediate Zoning District (not to exceed 7,000 square feet) as allowable uses. The hotel has been a long-standing existing use on the site; however, the hotel is a non-conforming use. The creation of the subdistrict along with the accompanying rezoning from C-3, Commercial Intermediate, to a Commercial Planned Unit Development, will allow the hotel use to remain or to be redeveloped and will retain all uses presently allowed by the existing C-3 zoning on the site.

SURROUNDING LAND USE, ZONING AND FUTURE LAND USE DESIGNATION:

Subject Property:
The current existing land uses on the subject site are a 17-room hotel and an 80-seat restaurant (Buzz/s Lighthouse Inn and Restaurant) with a hotel office, storage area, parking lot and swimming pool.
The subject site is located within a tourist resort area that includes a mix of uses including transient lodging, restaurants, retail shops, and high-rise condominiums. The site is across the street from the beach and one block north of a public parking garage. Collier Area Transit (CAT) operates a “beach bus” during season that passes by the subject site.

The subject site is zoned Commercial Intermediate Zoning District (C-3), allowing a variety of goods and services, with an increase in the intensity from the uses in Commercial Professional and General Office Zoning District (C-1) and Commercial Convenience Zoning District (C-2).

The +0.622-acre subject site is designated on the Future Land Use Map (FLUM) and in the Future Land Use Element (FLUE) as Urban, Urban Mixed Use District, Urban Residential Subdistrict and is within the Coastal High Hazard Area (CHHA). The Future Land Use designation of Urban Mixed Use District is intended to accommodate a variety of residential and non-residential land uses, including mixed-use developments such as Planned Unit Developments. The CHHA boundary is generally depicted on the Future Land Use Map and is more precisely shown in the Future Land Use Map series; all lands lying seaward of that boundary are within the CHHA. New rezones to permit mobile home development shall not be allowed within the CHHA. The Capital Improvement Element and Conservation and Coastal Management Element both contain policies pertaining to the expenditure of public funds for public facilities within the CHHA.

**Surrounding Land Uses:**

**North:** Immediately to the north (adjoining the existing parking for the Lighthouse Inn (hotel) and Buzz’s Lighthouse Restaurant) are current existing land uses of tennis courts and parking for the Vanderbilt Beach Motel Condos, and Vanderbilt Beach & Harbour Club Condos. North of the subject site it is zoned Residential Tourist District - Vanderbilt Beach Residential Tourist Overlay District (RT-VBRO). The FLUE designates the land to the north of the subject site as Urban, Urban Mixed Use District, Urban Residential Subdistrict and within the CHHA.

**East:** Immediately adjacent to the east lies the current existing land uses for a commercial marina (South Bay Marina), Vanderbilt Channel, and beyond the marina are existing residential condos. East of the subject site it is zoned C-3, Commercial Intermediate Zoning District. The FLUE designates this area to the east of the subject site as Urban, Urban Mixed Use District, Urban Residential Subdistrict and within the CHHA.

**South:** Immediately adjacent to the south (across South Bay Drive) are currently existing land uses for vacant commercial lots, the Beach Box Restaurant and Gulfview Condo. Beyond these uses lies Vanderbilt Beach Road. South of the subject site it is zoned C-3, Commercial Intermediate Zoning District. The FLUE designates this area to the south of the subject site as Urban, Urban Mixed Use District, Urban Residential Subdistrict and within the CHHA.

**West:** Immediately adjacent to the west (across Gulf Shore Drive) are currently existing land uses for the Vanderbilt Beach Resort, Turtle Club Restaurant, the Phoenician Sands Condos, and further to the west of these uses is the Gulf of Mexico. West of the subject
site it is zoned RT-VBRTO. The FLUE designates this area to the west as Urban, Urban Mixed Use District, Urban Residential Subdistrict and within the CHHA.

**STAFF ANALYSIS:**

**Background and Considerations:**

The subject site was platted in January 1954 (66 years ago). The site has been operated by the Dugan family with the present mix of uses (hotel and restaurant) for more than 40 years.

The applicant is proposing a GMP amendment to allow for the creation of a new subdistrict that will allow a hotel/motel use (limited to 17 rooms) and a variety of C-3 Zoning District permitted and conditional uses. Per LDC Sec. 9.03.02, if a nonconforming use ceases to operate for any reason for a period of more than one year, any subsequent use must conform to the regulations for the zoning district in which it is located. The effect of the nonconforming use status is that if the hotel use is ceased for any reason, including removal or destruction by natural causes, any future use must conform to those permitted by the C-3 zoning district. The nonconforming status of the hotel use also impacts the owner’s ability to adequately and reasonably insure the structure(s) and the business operations in the event of accidental destruction or natural disaster.

The objective of the Small-scale Growth Management Plan Amendment (SSGMPA) and companion PUD rezone is to allow the 17-room hotel as a permitted use by right (along with the currently permitted C-3 uses up to a maximum of 7,000 square feet), and to allow certain conditional C-3 uses through the established conditional use process. The PUD establishes development standards and deviations in order to facilitate redevelopment of the site with existing intensities. These site-specific development standards are particularly important given the relatively small size of the subject site.

The subject site consists of ±0.622 acres and is comprised of four tax parcels: the northern most parcel (# 79120080009) is a parking lot for Buzz’s Restaurant and Inn and the restaurant (maximum of 80-seats); the parcel (# 79120120008) directly south of this is the Lighthouse Inn; the parcel located at the corner of Gulf Shore Drive and South Bay Drive (# 79120160000) is the motel pool; and the parcel to the east of the pool (# 79120200009) is the motel office and storage. This GMPA amendment has a companion zoning petition (PL20190002793) to rezone the subject site from C-3 Commercial Intermediate Zoning District to a Planned Unit Development. The GMPA encourages new subdistricts to also create a PUD.

**Compatibility:**

Given the mixed-use nature of this neighborhood; the proximity of the site to the beach; the availability of significant public parking; and access to transit, bicycle, and pedestrian activity, the requested small boutique hotel, restaurant, and other permitted C-3 uses are appropriate. (Conditional uses in the C-3 district may be appropriate and will be determined on a case-by-case basis).

The surrounding area already includes other restaurant uses and seasonal condominiums used for transient lodging. Compatibility can be more specifically addressed with the zoning petition, and
may include building height and size limitations, setback and buffer requirements, etc. The applicant is not asking for any increase in the intensity of the existing uses.

In staff’s opinion, because the proposed uses of this subdistrict have already existed for 40 years and has created very little impact on the surrounding area, it appears to co-exist well with all the neighboring uses.

**Justifications for Proposed Amendment:**

Although the site has operated for many years at this location, it is a non-conforming use as the C-3 zoning does not allow for hotels as a permitted or conditional use. The effect of the nonconforming use status is that if the use is ceased for any reason, or the structure is removed or destroyed by natural causes, any future uses must then conform to the C-3 zoning district. This nonconformity also impacts the owner’s ability to adequate and reasonably insure the structure(s) and the business operations in the event of accidental destruction or natural disaster. The Objective of the SSGMPA is to allow the hotel and C-3 uses as allowable uses (site is presently zoned C-3).

Given the mixed-use nature of this neighborhood, which includes transient lodging, restaurants and retail shops, and high-rise condominiums; and the site’s proximity to the beach, availability of significant public parking, and the surrounding area’s high pedestrian and bicycle activity, the small boutique hotel, restaurant, other permitted C-3 uses are appropriate (and conditional uses in the C-3 district may be appropriate as determined on a case-by- case basis).

**Identification and Analysis of the Pertinent Small Scale Comprehensive Plan Amendment Criteria in Florida Statutes Chapter 163.3187:**

Process for adoption of small scale comprehensive plan amendment.

(1) A small scale development amendment may be adopted under the following conditions:

(a) The proposed amendment involves a use of 10 acres or fewer. *The subject site comprises ±0.622 acres.*

(b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year. *No small scale GMP amendments have been approved in calendar year 2020.*

(c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government’s comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small-scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small-scale future land use map amendment shall be permissible under this section. *This amendment does include a text change to the Comprehensive Plan and those text changes are directly related to the proposed future land use map amendment.*

(d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located
within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). [The subject property is not located within an Area of Critical State Concern.]

(2) Small scale development amendments adopted pursuant to this section require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(11). [This project will be heard with only one public adoption hearing.]

(3) If the small scale development amendment involves a site within a rural area of opportunity as defined under s. 288.0656(2)(d) for the duration of such designation, the 10-acre limit listed in subsection (1) shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the state land planning agency that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met. [This amendment does not involve a site within a rural area of opportunity.]

(4) Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177. Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments. [This amendment preserves the internal consistency of the plan and is not a correction, update, or modification of current costs which were set out as part of the comprehensive plan.]

Environmental Impacts and Historical and Archaeological Impacts:

Craig Brown, Senior Environmental Specialist with Collier County Environmental Planning Section, completed his review and approved this petition in May 2019. He provided the following comments:

“The Small-Scale Growth Management Plan Amendment (SSGMPA) is to create Vanderbilt Beach Commercial Tourist Sub-district. The property is 0.62 Acres. The proposed changes do not impact sensitive environmental habitat or change environmental FLUM policies.”

Public Facilities Impacts:

Eric Fey, Senior Project Manager with Collier County Public Utilities Engineering & Project Management Division, stated in his review dated May 2019, “This petition proposes no increase in density or changes in permitted uses, and would, therefore, have no impact on public utility facilities adequacy.”

Transportation Impacts:

Michael Sawyer, Project Manager with Collier County Transportation Planning, completed his review and approved this petition, without any conditions, in May 2019.
NEIGHBORHOOD INFORMATION MEETING (NIM) SYNOPSIS:

A Neighborhood Information Meeting (NIM), as required by Land Development Code (LDC) Section 10.03.05 A, was duly advertised, noticed, and held on August 1, 2019, 5:30 p.m. at the Collier County Public Library Headquarters, Sugden Theater, 2385 Orange Blossom Drive, Naples, FL 34109. This NIM was advertised, noticed, and held jointly for this small scale GMP amendment and the companion Planned Unit Development Rezone (PUDZ) petition.

The applicant’s team gave a presentation and then responded to questions. See applicant’s NIM notes included in the companion PUDZ packet. A total of approximately 15 members of the public along with approximately 4 members of the applicant’s team and County staff signed in at the NIM.

The consultant explained that there were two separate applications: a small-scale amendment for the Growth Management Plan (creation of a new subdistrict) and a zoning action for a Planned Unit Development Rezone (rezone a new PUD). The public asked questions about the project details, especially about intensity increases, such as will this become a high-rise hotel in the future, is this petition just opening the door for future growth. The applicant’s agent stated that this petition was not to permit the existing commercial intensities to increase, so therefore, there will be no change in the existing level of traffic generated with the approval of this petition.

The meeting ended at approximately 6:15 p.m.

[synopsis prepared by Sue Faulkner, Principal Planner, Comprehensive Planning Section]

PUBLIC CORRESPONDENCE RECEIVED BY STAFF:

Comprehensive Planning staff received one email correspondence of objection/concern, dated August 22, 2019, from Jay Halloran, a seasonal resident, who had been unable to attend the NIM. See the email included in this GMPA packet.

FINDING AND CONCLUSIONS:

- The reason for this GMPA and companion PUDZ zoning petition is to allow and permit, respectively, the hotel/motel use that is a longstanding (40+ years) non-conforming use in the existing C-3 zoning district.
- There are no adverse environmental impacts as a result of this petition.
- No historic or archaeological sites are affected by this amendment.
- There are no transportation or utility-related concerns as a result of this petition.
- The site’s uses (existing as well as permitted by existing zoning) will remain unchanged; therefore, the use intensity will remain the same.
- The use is generally compatible with surrounding development based upon the high-level review conducted for a GMP amendment and has co-existed with surrounding development for many, many years.
LEGAL CONSIDERATIONS:

This Staff Report was reviewed by the County Attorney’s Office on January 30, 2020. The criteria for GMP amendments to the Future Land Use Element are in Sections 163.3177(1)(f) and 163.3177(6)(a)2, Florida Statutes. The criteria for changes to the Future Land Use Map is in Section 163.3177(6)(a)8, Florida Statutes [HF4C]

STAFF RECOMMENDATION:

Staff recommends that the Collier County Planning Commission forward Petition PL20180002792/CPSS-2019-3 to the Board of County Commissioners with a recommendation to approve (adopt) and transmit to the Florida Department of Economic Opportunity.

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Petition Number: PL20180002792/CPSS-2019-3
Staff Report for February 20, 2020 CPCC meeting

NOTE: This petition has been tentatively scheduled for the March 24, 2020 BCC meeting.