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Via email to:

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Chairman Alan Maio
Vice Chairman Ron Cutsinger
Commissioner Michael A. Moran
Commissioner Christian Ziegler
Commissioner Nancy C. Detert

Re: Objection to **CPA 2022-B**

Dear Chairman Maio and members of the County Commission,

I write on behalf of Miakka Community Club¹ to formally object to and urge the Commission to deny, proposed Comprehensive Plan amendment CPA 2022-B. The state agency comments on the proposed amendment substantiate so many of the objections and issues we had raised to the Commission in our letter of August 13, 2022, all of which continue to apply to the proposed amendment.

We would like to take the opportunity however to highlight the points raised by the agencies and the significance of the agency comments.

The Department of Economic Opportunity's Oct. 6 letter supports many of the points we had raised to the BOCC. DEO's lack of formal objection does not at all mean that the proposed plan amendment is "in compliance" with the law. It simply reflects the statutory limitations on that agency's role in reviewing proposed comprehensive plan amendment. As noted in its Oct. 6

¹ The Miakka Community Club was founded in 1948. Its Motto is conservation and protection of the rural area. Since its inception, the Miakka Community Club has worked to preserve the Community's rural and agricultural lands for current and future generations to live on, learn from and love the land.

letter, the Department is able to object only to proposed plan amendments that would adversely affect issues or facilities of statewide importance. §163.3184 (2) and (3), Fla. Stat. All other issues, as the agency noted, are outside of its authorized scope of review. As a result, its lack of a formal objection means only that it did not determine that the proposed plan amendment would adversely affect issues or facilities of statewide importance.

The Departments' comment letter, on the other hand, validated several of our objections. First, the Department stated that the data and analysis demonstrate the planned availability of the public services and facilities required to serve the proposed development. Our comment letter had pointed out that Section 163.3177 (6)(a)8.a., Fla. Stat. requires that future land use map amendments shall be based upon an analysis of the availability of facilities and services. The Department specifically identified that potable water, sanitary sewer, schools, and solid waste facilities and services in that regard. It also, quite importantly, identified a segment of University Parkway (between Lake Osprey Drive and Bourneside Blvd.) that will not meet the adopted traffic level of service, but which would be impacted by the development authorized by the amendment. (DEO letter, p. 2)

Next, the Department found that the proposed amendment is vague as to the type and intensity of non-residential development that would be allowed by proposed Village Transition Zone Policies 2.1 and 3.1. (DEO letter, p. 2) Section 163.3177 (1), Fla. Stat. mandates that a comprehensive plan "shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations." The statute also requires that the comprehensive plan's Future Land Use Element:

"designat[] proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses ... and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use shall be provided for the gross land area included in each existing land use category. "

§163.3177 (6)(a), Fla. Stat. (emphasis added)

Even more specifically:

"Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and **measurable objectives.**" §163.3177 (6)(a)1, Fla. Stat.

As the Department's letter makes clear, the proposed amendment violates these fundamental requirements.

Next, the Department's letter supports our objections regarding the greenway buffers and open space. It pointed out that the proposed alternative greenway configurations and design criteria lack the "meaningful and predictable standards" required by §163.3177 (1), Fla. Stat. We had previously objected to the reduction of open space greenbelts for their failure to provide

adequate protection for native habitats and failure to ensure that the location, size, configuration, quality or other components of any preserved open space will be adequate to ensure the protection of the land's ecological functions. The Department explicitly stated that the County must "require a greenbelt minimum width that is wide enough to appropriately ensure that the greenbelt functions to clearly separate urban uses from rural uses." The Department also told the County to only allow those uses in "open space" that are consistent with the definition of open space, and that "public safety stations and community centers should not constitute open space". (DEO letter, p. 2)

Finally, the DEO found that the County and applicant have not shown that the proposed Future Land Use Map amendment does not constitute urban sprawl. It said that the County must either provide further explanation of how the allowed future land uses are not urban sprawl or modify the amendment to not constitute urban sprawl. (DEO letter, p. 2). We do not see how the County can produce professionally acceptable data and analysis to support a claim that the development proposed by the FLUM change is not urban sprawl. In terms of modifications to the proposed amendment, based on the location and relevant facts about the property, the changes necessary to allow the proposed amendment to avoid violating the urban sprawl provisions of the statute would significantly reduce the amount of residential development and supporting uses being introduced into this special rural and agricultural area.

The Southwest Florida Water Management District review found that the amendment lacked a potable water analysis, including calculations demonstrating raw water availability and water facilities, to meet the increase in potable water demand that would be created by the proposed Future Land Use Map designation. As noted by the District, such an analysis is required by §163.3177(6)(a)8. a., Fla. Stat. SWFWMD letter, Sept. 27, 2022, p. 1.

The District also found that the proposed development site is in the Most Impacted Area (MIA) of the Southern Water Use Caution Area. SWFWMD letter, Sept. 27, 2022, p. 1. Thus, it wrote, "the use of water conservation and reclaimed water (when available) should be maximized." SWFWMD letter, Sept. 27, 2022, p. 1. Our August 13, 2022 objection letter had identified that complete lack of **binding policies in the proposal related to water conservation, even though** Environmental Objective 1.2 of Sarasota County Comprehensive Plan requires the County to "[p]rotect environmental resources **during land use changes....**"

Next, the District reports that "there are areas throughout the site susceptible to flooding, as they are located within floodplain areas, and National Wetlands Inventory data shows there may be wetlands that overlap many of these areas." SWFWMD letter, Sept. 27, 2022, p. 2. The proposed amendment however includes no analysis of the impacts of the proposed development on wetlands and floodplains. Such analysis is, however, required by §§163.3177(1) (f), and (6) (a) (2) and (8), Fla. Stat.

The District advised that encroachments into wetlands and floodplains be avoided or minimized. It identified policies such as clustering development in uplands, preserving natural vegetated areas, and preserving previous surface areas. The proposed amendment requires none of these things.

Next, the October 4, 2022 letter from the Florida Fish and Wildlife Conservation Commission found that the amendment completely lacked a wildlife assessment. FFWCC letter,

p. 1. The Commission's own review of the relevant data demonstrated that the proposed site has substantial wildlife habitat value, and allowing the proposed development would require extraordinary measures and practices to prevent the development from creating substantial adverse wildlife habitat impacts.

The Commission found that the project area is located near, within, or adjacent to:

- One or more wood stork nesting colony core foraging areas
- The U.S. Fish and Wildlife Service Consultation Areas for federally listed species,

including:

- a. Florida bonneted bat
- b. Florida grasshopper sparrow
- c. Florida scrub-jay
- d. Audubon's crested caracara

- Potential habitat for the following federally and state-listed species:

- a. Eastern indigo snake
- b. Gopher tortoise
- c. Florida pine snake
- d. Florida sandhill crane
- e. Southeastern American kestrel
- f. Little blue heron
- g. Tricolored heron
- h. Florida burrowing owl, and
- i. Least tern

- Existing Conservation Lands, including:

- a. Heritage Ranch Conservation Easement
- b. Heritage Ranch Section 12 Gopher Tortoise Recipient Sites
- c. Gum Slough TNC Conservation Easement
- d. The Concession Preserve

FFWCC letter, pp. 1-2.

The Commission also found that the northwest portion of planned development is directly adjacent to a gopher tortoise Recipient Site and that the Lakewood Ranch Southeast property may have potential habitat for the gopher tortoise. It found the site to contain suitable habitat for Florida pine snakes and that the site may provide foraging habitat for Florida sandhill crane, and the littoral zone of the open wetlands onsite may provide potential nesting habitat for this species. It also reported that suitable habitat for southeastern American kestrels may be found within the proposed project area. FFWCC letter, p. 3.

The Commission found that potential exists for wading bird nesting activity in the inundated forested wetlands on the project site, and that suitable habitat for Florida burrowing owls may be found on the project site. FFWCC letter, p. 4.

The Commission found that portions of Lakewood Ranch Southeast fall within a priority 5 ranked area of the Florida Ecological Greenways Network database, which identifies the most important ecological corridors and intact landscapes across Florida for the protection of the state's native wildlife, ecosystem services, and ecological resiliency. It explained that:

“Severance or reduction of ecological corridors could constitute a significant adverse impact to important state wildlife resources through habitat fragmentation, isolation of existing wildlife populations, and hinderance of genetic exchange.”

FFWCC letter, p.5.

Finally, the Commission found that this land is within a fire management smoke shed for the Heritage Ranch Conservation Easement and other nearby conservation lands, and that the proposed development could compromise the ability of managers to conduct the prescribed burns required to maintain these habitats and prevent catastrophic wildfires. FFWCC letter, p.6.

The Commission identified an extensive list of measures that would be required to try to make the proposed development compatible with, and avoid adverse impacts to, the wildlife habitat values in this location, including:

- A prohibition on severing or reducing ecological corridors
- Conducting species-specific surveys, based on FFWCC guidelines, prior to any clearing or construction.
- Avoiding and minimizing impacts to gopher tortoise's habitat.
- A prohibition on construction activities during certain breeding and nesting seasons.
- Buffers of 300 feet from wading bird nesting sites.
- Maintenance of wildlife crossings under major roads, to protect wetland and upland forests or small streams or riparian zones to maintain habitat connectivity within natural landscape linkages, avoid habitat degradation, reduce wildlife roadkills, and increase public safety.
- Establishment of a Wildlife and Habitat Management Plan for habitat management to ensure these areas continue to provide habitat for fish and wildlife resources.
- An integrated vegetation management plan that includes the use of herbicides, mechanical treatments, and fire to guide management of invasive exotic plant species.
- Decontamination of equipment before performing management activities on the landscape
- Development of a vegetation management plan addressing invasive plant control, groundcover restoration/management, and potential species information.

FFWCC letter, pp. 4-6.

Given the Commission's review, it is clear that the proposed land use amendment is not suitable relative to the environmental character of the land. As a result, the amendment violates

§163.3177 (6)(a).8, Fla. Sta., which requires that future land use map amendments be based upon “[a]n analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land....” “To be based on data means “to *react to it in an appropriate way and to the extent necessary* indicated by the data” §163.3177(1) (f), Fla. Stat. The amount of development is too intense given the natural habitat values, and none of the multiple development limitations recommended by the Commission are included in the proposed comprehensive plan amendment policies. The adoption of the amendment would, by no means, be “based upon” the environmental data and analysis.

Because of its environmental impact, the proposed land use amendment also encourages urban sprawl, in direct contradiction of §163.3177(6)(a)(9) (IV), Fla. Stat., because it “[f]ails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas ... and other significant natural systems.” It also violates §163.3177(6)(a)3. f., Fla. Stat. because it fails to “ensure the protection of natural resources”

For the same reason, the FLUM change violates Environmental Objective 1.2 of Sarasota County Comprehensive Plan, which requires the County to “[p]rotect environmental resources during land use changes....”

Next, Next, despite the fact that the law requires the plan’s future land use element to “ensure the protection of ... historic resources”² the Florida Department of State found that the amendment area has not had a cultural resource assessment survey conducted to determine if unrecorded historic resources are present.

The agency reviews demonstrate that the proposed development is unsuitable for this rural and environmentally sensitive site from the County’s existing urban centers. The proposed land use amendments would encourage urban sprawl, in direct contradiction of §163.3177(6)(a)(9), Fla. Stat., because it promotes and allows low-density, single-use development in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development. It also fails to adequately protect and conserve natural resources, such as wetlands, floodplains, and native vegetation and to adequately protect adjacent agricultural areas and activities. It will result in the loss of significant amounts of functional open space. It allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government. It completely flouts the purpose of the Plan’s Urban Services Boundary and urban infill development requirements. It fails to provide a clear separation between rural and urban uses and will significantly compromise the historic Old Miakka Community, to which it has no functional relationship whatsoever.

For all of these reasons, this proposed massive land use change violated state planning law and the Sarasota County Comprehensive Plan. It is also a really bad planning decision for the County and its residents, thrusting a residential development at multiple times the existing density and the introduction of urban infrastructure and facilities into a unique and irreplaceable rural community, while at the same time reducing the greenbelt and other existing protections designed

² §163.3177(6)(a)3.f., Fla. Stat.

to make suburban development compatible with rural and farming uses. It is a “double whammy” of dramatically adverse impacts for Old Miakka.

We urge the County to uphold the Comprehensive Plan and protect this special community by rejecting this application.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Richard Grosso', with a stylized, cursive script.

Richard Grosso

Cc: Becky Ayech, President, Miakka Community Club
Brett A. Harrington, AICP, bharring@scgov.net