



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

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Secretary

September 11, 2009

The Honorable Jack Mariano
Chair, Board of County Commissioners
Pasco County
7530 Little Road
New Port Richey, Florida 34654

Dear Chair Mariano:

The Department has reviewed the proposed amendment for Pasco County (DCA No.09D-1), which was received on July 13, 2009. Based on Chapter 163, Part II, Florida Statutes, Rule 9J-5, Florida Administrative Code, and the adopted Pasco County Comprehensive Plan, we have prepared the attached report that outlines our findings concerning the amendment.

The proposed amendment to the Comprehensive Plan pertains to the SunWest Harbourtowne Development of Regional Impact Future Land Use Map amendment totaling approximately 1,071 acres and a related sub-area text policy amendment. The two proposed amendments would allow for the development of 2,500 dwelling units, along with retail, office, hotel, golf course, and a marina facility with boat slips. The Department has identified concerns with amendments that are identified in the following report.

The attached Objections, Recommendations, and Comments Report is intended to assist the County in responding to the issues we have raised in a manner that is in compliance with state growth management requirements. We have also included a copy of local, regional and state agency comments for your consideration. Within the next 60 days, the County should act by choosing to adopt, adopt with changes or not adopt the proposed amendments. For your assistance, our report outlines procedures for the final adoption and transmittal.

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Jack Mariano, Chair
September 11, 2009
Page 2

The Department's staff is available to assist the County in responding to the report. The County staff is urged to contact the Department for assistance in responding to the identified objections. If you have any questions, please contact Chris A. Wiglesworth, Senior Planner at (850) 922-1826.

Sincerely,

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/caw

Enclosures: Review Agency Comments
Objections, Recommendations and Comments Report

cc: Mr. Manny Pumariaga, Executive Director, Tampa Bay Regional Planning Council
Mr. Richard E. Gehring, Growth Management Administrator, Pasco County

**OBJECTIONS RECOMMENDATIONS AND COMMENTS REPORT
PASCO COUNTY 09D-1
PROPOSED COMPREHENSIVE PLAN AMENDMENT**

Consistency with Rule 9J-5, F.A.C., and Chapter 163, Part II, F. S.

The Pasco County 09D-1 amendment package consists of a Future Land Use Map amendment and sub area policy text amendment related to the proposed SunWest Harbortowne Development of Regional Impact.

I. The Department has identified the following objections to the proposed amendment:

1. Environmental Suitability:

The County is proposing to change various land use designations on the subject site to Planned Development designation (PD) which allows a variety of uses to occur anywhere on the site. This land use designation is not suitable for this area for the following reasons:

- a) Location in the Coastal Lands the Category: The subject area for this amendment includes a 562-acre portion that is currently designated Coastal Lands (1 unit per 40 acres), of which 110 acres are category 1 and 2 wetlands, 238 acres are category 3 wetlands (including lakes) and 214 acres are uplands. The Coastal Lands (CL) category within the site contains sensitive coastal wetlands, marshes and karst features and other environmentally sensitive resources. Also, lands adjacent to and surrounding the CL category contain coastal wetlands, marshes and karst features and other environmentally sensitive resources. The intrusion of dense residential and mixed land uses proposed under the amendment is incompatible with the protection, conservation, and enhancement of these resources. The proposed PD designation for the CL portion of the site is not suitable. The County had appropriately assigned to this area the CL designation that allows very limited residential and mixed development in light of the environmentally sensitive nature of the site and in order to ensure their protection. Rule 9J-5.006(3)(b)4, requires local comprehensive plans to “ensure the protection of natural resources” and Rule 9J-5.012(3)(b)1 requires local comprehensive plans to “protect, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat”. The proposed land use designation for this site is not consistent with these provisions of state law.

- b) Location in the FEMA V-zone: A substantial part of the property is located in FEMA V-Zone, an area that is known to be more prone to natural disasters. Pursuant to Chapter 163.3177(6)(g)1.h., local comprehensive plans are required to ensure the “protection of human life against the effect of natural disasters”. Also, Chapter 163.3178(1); states that; “it is the intent of the Legislature that local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit

public expenditures in areas that are subject to destruction by natural disaster” and Rule 9J-5.012(3)(c)3 states that local Comprehensive Plans must management techniques for “general hazard mitigation including regulation of building practices, flood plains, beach and dune alteration, storm water management, sanitary sewer, and septic tanks, and land use to reduce the exposure of human life and public and private property to natural hazards”. By assigning the PD designation to properties in both the CL category and the FEMA V-Zone, the County is shifting more intense development to the most vulnerable portion of the subject site which is inconsistent with state law.

- c) Presence of Sinkholes and Karst Features: According to the FDEP, the site contains features and formations such as springs and sinkholes. Also, FDEP indicated that according to the Florida Aquifer Vulnerability Assessment (FAVA) the groundwater quality in this area is sensitive to pollution from land use activities due to the environmentally sensitive features on the site. By increasing residential density and allowing mixed-uses in protection areas, the amendment is inconsistent with the protection of groundwater quality, the potential for sinkholes on the site, as well as the impact that the increased storm water runoff, which will result from this amendment, will have on the surface and underground water quality.
- d) Inconsistency with the Comprehensive Plan: The proposed amendment is inconsistent with the County’s comprehensive plan with respect to the protection of sensitive natural resources on the site. Portions of the site are identified in the plan on Map 3-3, as an Ecological Planning Unit (EPU). Conservation Element Objective 1.5 and related policies require the protection and conservation of natural resources of particular ecological significance within areas identified as an EPU. In addition, the FLUM change is inconsistent with Coastal Element Policy 2.2.2, which states that the County shall not provide nor allow, directly or indirectly infrastructure to serve the private development of marshlands, which would occur under the FLUM change. The proposed FLUM change to the PD category would permit intensification of residential uses and marina type uses in areas of the site identified as Coastal Marshes. Map 3.3 depicts the site as being in the Coastal Marshes Ecological Planning Unit, which includes wetlands, sea grasses, floodplains and coastal marshes. Thus, the amendment would have adverse impacts on these resources and is inconsistent with the County’s plan.

Rules 9J-5.005(2) and (5); 9J-5.006(2)(b) and (3)(b)1 and 4; 9J-5.006(3)(c)6; 9J-5.011(2)(b)5 and (2)(c)4; 9J-5.012(2)(e)1; 9J-5.012(3)(a),(b)1,2,5 and 6; 9J-5.012(3)(c)1 and 3; 9J-5.013(2)(b)2,3, and 4; 9J-5.013(2)(c)1,3,5,6 and 9; 9J-5.013(3)(a) and (b), F.A.C., and Sections 163.3177(6)(a and d); 163.3177(6)(g)1.h; 163.3177(8) and (10)(e); 163.3178(1) and (6), F.S.

Recommendation: Do not assign the PD designation to lands in the CL category and in the FEMA V-Zone, which is the most vulnerable portion of the site and is subject to destruction by natural disaster. Revise the amendment to disallow the intensification of residential and mixed uses on the properties currently designated CL, and depicted in the V-Zone, in order

to ensure: 1) that human life and the coastal resources of the area are protected; 2) that groundwater quality will be protected, 3) that public expenditures in these areas and the FEMA V-Zone are minimized, and 4) that incompatible uses are directed away from wetlands and sensitive environmental areas to ensure the protection of natural resources including the quality of the surface and underground water.

2. Impact to threatened and endangered species:

The proposed amendment does not ensure the protection of threatened and endangered wildlife species. According to the Florida Department of Environmental Protection (FDEP) and the Florida Fish and Wildlife Conservation Commission (FWC), the proposed FLUM change would allow development in an area where there will be negative impacts to the wildlife habitat, primarily of the Chassahowitzka bear population, an FWC threatened specie. A portion of the proposed site to be developed contains sensitive wildlife habitat and bear territory, which when developed, will result in direct loss and fragmentation of the southern portion of the bear's habitat. The amendment transmittal states that the County will require as part of the D.O, wildlife protection or mitigation of impacts to the Chassahowitzka bear. However, this has not been demonstrated in the proposed amendment. Rule 9J-5.013(2)(b)4., and (2)(c)5., require local comprehensive plans to restrict "activities that are known to adversely affect the survival of endangered and threatened wildlife". This amendment has not been demonstrated to be consistent with these requirements of the state law.

Rules 9J-5.005(2); 9J-5.006(2)(b) and (3)(b)4; 9J-5.012(3)(a)(b)1 and 2; 9J-5.012(c)1; 9J-5.013(2)(b)3 and 4; 9J-5.013(2)(c)3,5,6 and 9; 9J-5.013(3)(a) and (b), F.A.C., and Sections 163.3177(6)(a, d and g)(8) and (10)(e); 163.3178(2)(j), F.S.

Recommendation: Revise the amendment to ensure the protection of threatened and endangered species habitat that would be affected by the amendment. The amendment should demonstrate that development of the subject site includes appropriate mitigation and that development does not negatively impact the wildlife and wildlife habitat associated with the site, primarily the Chassahowitzka bear habitat.

3. School Concurrency:

The County's analysis has not shown that there is adequate school capacity available within the project's concurrency service area (CSA) to accommodate the students generated by the development. Also, the methodology used to estimate the number of students does not appear to use the correct student generation multiplier for the type of housing units proposed to be developed. The development proposes 350 single family detached units and 2,150 single family attached units. However, the County's analysis calculated the student generation for the 2,150 single family attached units using the student generation multiplier for multifamily buildings with four units or greater. The County's analysis does not indicate which units, if any, will be multifamily buildings with four units or greater. The 2,150 single family attached units may fall under the single family multiplier which would double the number of students generated by the 2,150 units.

Rules 9J-5.005(2); and 9J-5.025(2)(a,b,c,d and e) and (3)(b)1,2 and 3, F.A.C., and Sections 163.3177(2),(6)(a),(8) and (10)(e); 163.3177(12); 163.3180(13), F.S.

Reccomendation: Revise the amendment to include data and analysis that demonstrates whether there is adequate school capacity in the concurrency service area for the students that would be generated by the amendment. Also, revise the student generation methodology to support the correct student generation multiplier for the type of housing units proposed to be developed.

II. Consistency with the State Comprehensive Plan

The proposed Comprehensive Plan amendments are not consistent with and do not further the following provisions of the State Comprehensive Plan (Chapter 187, Florida Statutes) for the reasons noted in the objections raised above in Section I:

- (a) Goal 6.a (Public Safety) Policy; 6.b.22, related to objection 3
- (b) Goal 7.a (Water Resources) Policies; 7.b.2, 7.b.4, 7.b.6, 7.b.7, 7.b.9, 7.b.10, and 7.b.12, related to objections 1 through 5;
- (c) Goal 8.a (Coastal and Marine Resources) Policies: 8.b.3, 8.b.4, 8.b.6, and 8.b.7, related to objections 1 through 5;
- (d) Goal 9.a (Natural Systems and Recreation Lands) Policies; 9.b.1, 9.b.3, 9.b.4, 9.b.5, and 9.b.7, related to objections 1 through 5;
- (e) Goal 15.a (Land Use) Policies; 15.b.6, related to objections 1 through 5;
- (f) Goal 25.a (Plan Implementation) Policies; 25.b.3, 25.b.5, and 25.b.8, related to all objections.

Recommendation: Revise the plan amendments as recommended for the objections raised above.