

Memo

To: Paul O'Connor, Planning Director

From: David Loveland, Manager, Transportation Planning *DML*

Date: April 18, 2007

Subject: **CPA 2006-00001 (The Fountains)**

The Department of Transportation has reviewed the above-referenced privately-initiated future land use map and text plan amendment, to change approximately 2,769 acres around the intersection of Daniels Parkway and SR 82 from a combination of Central Urban, Density Reduction/Groundwater Resource, and Wetlands land use categories to a combination of Conservation Lands, Public Facilities, Tradeport, Density Reduction/Groundwater Recharge, and a new category called Town Center District (TCD). The requested amendment also seeks to modify the Future Land Use Map series to include The Fountains DRI maps 1, 3D, 3I, 4, 6, 7, 16, 19 and 20. We offer the following comments:

1. Based on comparison to the 2030 Financially Feasible Plan network, the applicant has mistakenly identified the programmed and planned number of lanes on several segments of roadway in Tables 5 and 6. The change causes some of these segments to drop out of the list of failing roads. First, the applicant identifies 12th Street in Lehigh Acres from Douglas Avenue to Connie Avenue as 2 lanes; however, the MPO Financially Feasible Plan refers to that segment partly as Sunset Road and partly as 19th Street West, all to be 4-laned. The applicant did correctly identify Colonial Boulevard from Treeline Avenue to SR 82 as 4 lanes based on what is shown in the MPO plan, but that reflects an error by the MPO, since the County will be 6-laning that segment starting by the end of this year. Also, the segment of Gunnery Road from Lee Boulevard to Centennial Boulevard is mistakenly shown by the applicant as 2 lanes when it is included in the MPO plan as 4 lanes. The corrections of these 3 roadways drops them out of the list of failing roads by 2030.

However, there are two other incorrectly identified segments that are still projected to fail even with the correction. They include the southern segment of Gunnery Road from SR 82 to Lee Boulevard, which the applicant shows as 2 lanes but is actually in the process of being widened to 4 lanes right now and should be finished soon, and the section of Daniels Parkway from Chamberlin Parkway to SR 82, which the applicant shows as 4 lanes but at least part is included in the MPO plan as 6 lanes and in fact DOT staff has asked the MPO to show all of it as 6 lanes by 2030. Lee County has actually programmed the 6-laning of a portion of it from Chamberlin Parkway to Gateway Boulevard in FY 2010/11.

2. Based on the addition of the proposed project to our zonal data forecasts, analyzed on the 2030 Financially Feasible Plan network, the following 2 road segments are projected to fail in 2030 with The Fountains:

ROADWAY	FROM	TO	# OF LANES		LOS		COST (2007 \$)
			EX.	NEED	W/O	WITH	
Gunnery Rd.	Leonard Blvd.	Lee Blvd.	4	6	C	F	\$14,530,000
SR 82	Gateway Blvd.	Gunnery Rd.	2	6	D	F	\$23,060,000
						TOTAL	\$37,590,000

The County's plan amendment package states "(a)n inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change." An applicant in this scenario has two options to avoid a staff recommendation of denial: (1) make the financial commitment to cover the full cost of the needed improvements so they can be added to the financially feasible plan; or (2) reduce the level of requested development so that the impacts don't cause the need for an additional improvement.

Under normal circumstances, the County would simply need a commitment of \$37,590,000 from the applicant to fully cover the costs of adding the two needed improvements to the financially feasible plan to allow the request to move forward. However, in this case there are also 8 other segments that are projected to fail in the vicinity of this project even without the impacts of The Fountains. Those segments are:

ROADWAY	FROM	TO	# OF LANES		LOS		COST (2007 \$)
			EX.	NEED	W/O	WITH	
Buckingham	Neal Rd.	Alvin Ave.	2	4	F	F	\$1,420,000
Daniels Pkwy.	I-75	Chamberlin	6	8	F	F	\$32,550,000
	Chamberlin	SR 82	6	8	F	F	\$23,180,000
Gunnery Rd.	SR 82	Leonard Blvd.	4	6	F	F	\$4,740,000
Lee Blvd.	SR 82	Sunniland Bl.	6	8	F	F	\$64,760,000
SR 82	Buckingham	Gateway Blvd.	2	6	F	F	\$12,760,000
	Gunnery Rd.	Parkdale Blvd	2	6	F	F	\$36,760,000
Treeline Ave.	Alico Rd.	Colonial Blvd.	4	6	F	F	\$51,770,000
						TOTAL	\$227,940,000

Making the financial commitment to be able to add the costs for improving all these segments (or parallel improvements) to the financially feasible plan would likely be beyond the ability of a single applicant. The projected conditions in the surrounding road network will be unsatisfactory,

Memo to Paul O'Connor
April 18, 2007
CPA 2006-00001 (The Fountains)
Page 3

and there are no identified funding sources to address the unmet needs. Based on this situation, DOT staff cannot recommend approval of the plan amendment request.

Applicant Referral to Section 163.3180(12), F.S.

The applicant has suggested that, as a multi-use DRI, under the provisions of Section 163.3180(12) of the Florida Statutes, he can pay proportionate share mitigation in full satisfaction of the transportation impacts. The applicant also suggests that because the Lee Plan includes Policy 37.4.3, which makes a reference to Section 163.3180(12), Lee County has already authorized such an action.

Section 163.3180 (12), Florida Statutes, reads:

(12) When authorized by a local comprehensive plan, a multiuse development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

- (a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3)(h) and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential dwelling units or 15 percent of the applicable residential guideline and standard, whichever is greater;
- (b) The development of regional impact contains an integrated mix of land uses and is designed to encourage pedestrian or other nonautomotive modes of transportation;
- (c) The proportionate share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required improvements that will benefit a regionally significant transportation facility;
- (d) The owner and developer of the development of regional impact pays or assures payment of the proportionate share contribution; and
- (e) If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the

Memo to Paul O'Connor
April 18, 2007
CPA 2006-00001 (The Fountains)
Page 4

development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having the maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways, resulting from the construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement.

Policy 37.4.3 reads:

Concurrency vesting (i.e., a long-term concurrency certificate) may be granted for DRIs under limited circumstances in accordance with Chapter 163.3180(12), F.S., and including up to a 10-year time limitation, a limitation on changes to the DRI development parameters over time, and the execution of a local government development agreement in which the developer agrees to pay his full proportionate share/impact fee obligation up front.

Staff's reading of the statutory provisions is that they only relate to the DRI impacts and concurrency (which is tied to the local development order), they do not address the impacts of a comprehensive plan amendment in the horizon year of the plan. In Lee County, a comprehensive plan amendment impact analysis is very different than a DRI analysis. Where a DRI analysis is on an existing-plus-committed road network and only through buildout of the DRI, a comprehensive plan amendment analysis is in the horizon year of the plan (2030) and is done on the financially feasible road network. The key issue for a plan amendment is whether there are adequate public facilities planned to address the projected growth with the addition of the amendment, which is measured as the need for facilities beyond those already included in the financially feasible transportation plan. A commitment for the full cost of those additional improvements is necessary to add them to the financially feasible plan; simply paying a proportionate share does not make them financially feasible.



Memo to Paul O'Connor
April 18, 2007
CPA 2006-00001 (The Fountains)
Page 5

The applicant's reference to Policy 37.4.3 is also in error, as that does not relate to paying a proportionate share to satisfy a comprehensive plan amendment impact. Instead, that policy is only intended to identify the limited circumstances where concurrency vesting might be granted, which has a very limited time frame (no more than 10 years), and therefore wouldn't apply to a plan horizon year at least 20 years in the future.

There may be certain situations where Lee County would be willing to accept a share of the cost of an improvement as satisfactory mitigation for a comprehensive plan amendment, such as a project that is helping address an overriding public need such as a hospital, or a situation where there are additional funding resources anticipated from other entities within a meaningful time frame. The statute allows a local government to accept a proportionate share payment as full mitigation only at their discretion, if such circumstances as noted above are present. Those circumstances do not exist in the context of The Fountains. Therefore, DOT staff concludes that the magnitude and intensity of development proposed at this location is premature due to the lack of adequate infrastructure to accommodate the overall projected growth in the year 2030.

Thank you for this opportunity to comment. Please let me know if you have any questions.

cc: Matt Noble
Donna Marie Collins