



Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

May 21, 2019

Lee County Board of County Commissioners
John Manning, District 1
Cecil Pendergrass, District 2
Brian Hamman, District 4
Frank Mann, District 5

Sent via email

RE: CPA 2018-10018: Old Corkscrew Commercial Transmittal

Dear Commissioners:

On behalf of the Conservancy of Southwest Florida and our more than 7,000 supporting families, this letter is our response to the application to add neighborhood commercial uses to the Private Recreational Facility Planned Development (PRFPD) land use category. We have significant concerns regarding this proposal and ask that you do not transmit this amendment.

Lee Plan Consistency

In the Lee Plan vision for 2030, one of the first statements is that the "county will attempt to maintain the clear distinction between urban and rural areas".¹ A major concern for the Conservancy is that expanding the PRFPD land use category will be a large step in eroding this distinction, and forever change the character of the Density Reduction/Groundwater Resource (DRGR) area in southeast Lee County.

This proposal is not consistent with the Lee Plan. In southeast Lee County, the Lee Plan states that "[r]esidential and commercial development will not be significantly increased except in very limited areas where development rights are concentrated by this plan".² Those limited areas are in Mixed-Use Communities.

In the DRGR, Policy 1.4.5.2.a states that "commercial and civic uses can be incorporated into Mixed-Use Communities". This is the appropriate location for commercial external to residential development and provides ample potential square footage for such uses, if needed, beyond the urban area.

¹ First bullet, I-1, Lee Plan

² I-9, Lee Plan



Conservancy of Southwest Florida has been awarded Charity Navigator's prestigious 4-Star top rating for good governance, sound fiscal management and commitment to accountability and transparency. Charity Navigator is America's largest and most respected independent evaluator of charities.

Basis for the Conservancy's Recommendation Not To Transmit

The applicant's project narrative states that fractional time share units and a golf course should qualify the property for "urban level development"³. The Conservancy asks that you review the existing DRGR and Environmental Enhancement Preservation and Community Overlay (EEPCO) policies as it relates to this statement because the DRGR is *not* an urban area and *does not* allow for urban development. Further, approval for fractional time share units entitles the applicant to one thing: fractional time share units. There is no such thing as "entitlement" for "urban level development" in a rural area. We strongly disagree with the characterization of the area as anything other than rural. Urban development is defined in Lee Plan under Objective 1.1, which includes both urban and suburban areas. The DRGR includes neither urban or suburban land use designations by design. Instead, the EEPCO, which allows up to one unit per acre, is considered rural⁴ by Lee County standards.

Moreover, the applicant claims the EEPCO "allows for suburban uses" and that the surrounding residential development is "small lot units".⁵ Again, we urge a careful review of the EEPCO policies. The EEPCO does not allow for suburban uses. The EEPCO has several requirements with the goal of improving, preserving, and restoring regional surface, groundwater resources, and indigenous wildlife habitat.⁶ The requirements include restoring and preserving wetlands, including a minimum of 60% open space and providing critical wildlife connection to adjacent conservations areas.⁷ This overlay also allows for density up to one dwelling unit per acre, a rural density in Lee County.⁸ In order to meet the intent and criteria set forth by Policy 33.3.4, the resulting communities have chosen to cluster their development to meet the open space and restoration requirement. To transform the EEPCO into a justification for urban uses is contrary to the purpose of the overlay.

The application also states that this proposal is not designed to significantly increase commercial development but provide just enough⁹ service. However, the proposal *would* significantly increase commercial development in the DRGR. Currently, the only commercial approved for the DRGR is part of a residential community and limited to the members of that community. If additional commercial for the residents in the EEPO is needed, it should be (and is) addressed internal to the residential communities.

The applicant states that there are very limited commercial uses in the DRGR and none projected to service the residential developments east of Flint Penn Strand.¹⁰ However, we note that the nearest commercial center from the easternmost boundary of the EEPO is approximately eight miles. For residents who choose to live in a rural area, such as the DRGR, this is a relatively small distance to travel for commercial needs. In fact, as seen from developments such as Alva and Buckingham in Lee County

³ Page 9 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

⁴ Lee Plan, Policy 1.4.1

⁵ Page 13 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

⁶ Policy 33.3.4

⁷ Policy 33.3.4.2.a

⁸ Policy 33.3.4.3

⁹ Page 16 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

¹⁰ Page 12 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

and Golden Gate Estates in Collier County, there are many people who choose to live many miles away from commercial and retail establishments. Within the DRGR, Verdana and Pepperland decided to include accessory commercial development within their Residential Planned Development (RPD). This option remains available to other developments.

The applicant states that the proposed amendment will have no impact on environmentally sensitive resources.¹¹ We disagree. The entirety of the site is secondary panther habitat, as well as adult panther breeding habitat, and much of this habitat will be vulnerable to development if this amendment is adopted.

The staff report states that the project area will be have enough residential development at build out to “warrant a Neighborhood Commercial Development”¹². It is necessary and appropriate to distinguish this from need. There is no “need” for commercial development; it may be possible to support a commercial development. These are different concepts. Should you choose to approve neighborhood commercial use as an accessory use or in conjunction with PRFPD, there is no need component. These text amendments would allow a neighborhood commercial development any place there is a PRFPD. At the moment, there is only one PRFPD location, however, this may not always be the case.

Questions and Concerns for Staff

This amendment results in many serious comments and questions not answered by the application or the staff report.

1. How can a private recreational facility provide a public commercial center as an ancillary use or in conjunction with the private use? Doesn't this make the PRFPD not actually private but rather a public use with a private component?
2. The applicant's project narrative is confusing and seems to make the case that the designation for the property should be commercial although the applicant is requesting the addition of neighborhood commercial to the PRFPD land use category. The applicant states that “[a]ny commercial within the DR/GR must be ancillary to another use, making it infeasible to properly address the daily retail needs.”¹³ Yet, this proposal is for an ancillary use or use in conjunction with the PRFPD. This is internally inconsistent.
3. How many ancillary commercial uses can a single PRFPD facility have? There appears to be an outparcel of nearly two acres. Will the applicant be able to come back at a different time and ask for additional non-residential square footage, or this single golf course PRFPD limited to a total of 100,000 SF?
4. In this case, it is our understanding that the golf course and the proposed commercial parcel have different owners. Does that mean that the 85% open space applies to the 18.4 acre parcel? If not, what legal instrument binds the two parcels together in order to allow them to function, in some way, as a single legal unit?

¹¹ Page 10 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

¹² Lee County BoCC Transmittal Report, CPA2018-10008, dated May 8, 2019, page 9 of 13

¹³ Page 269 of 273, Application materials linked in Staff Report, received by Lee County on April 2, 2019

5. "Ancillary to" or "in conjunction with" are not clearly defined.¹⁴ What happens if the golf course closes? Does that mean this development will need to shut down? How would this be monitored and enforced?
6. Policy 6.1.7 prohibits commercial developments for locating in such a way as to open new areas to premature, scattered, or strip development. This is the very definition of scattered development. How could this use in PRFPD be consistent with Policy 6.1.7?
7. Policy 1.4.5 of the Lee Plan states that "[o]nly minimal public facilities exist or are programmed" for the DRGR. This is in contrast to the applicant's statement that the subject property is "entitled for urban level development"¹⁵. Such a statement needs to be cross-checked against existing DRGR policies.
8. Policy 6.1.2 states that "Commercial development in non-urban future land use categories is limited to Minor Commercial [except for uses serving the Lee County Civic Center]". This policy further includes locational standards that the proposed application does not meet. Is the proposed application consistent with Policy 6.1.2?

Conclusion

As explained herein, we have many concerns and questions about the application and this proposal. The proposed development is contrary to DRGR policies, and we ask you to vote not to transmit for state review. We are primarily concerned with the erosion of character in the DRGR. Any proposed change to the Lee Plan should be internally consistent, clear, and concise. This proposal is not. Thank you for your time and consideration of our concerns and issues.

Sincerely,



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¹⁴ See proposed Policy 13.2.9 in Attachment 1; Also presented in LPA Staff Report for CPA2018-10008 dated May 8, 2019, page 8 of 13

¹⁵ Page 9 of 17, Project Narrative and Lee Plan Consistency, received by Lee County on March 15, 2019

May 21, 2019

Sent via e-mail

Lee County Board of County Commissioners
2120 Main St.
Fort Myers, FL 33901

Re: Comprehensive Plan Amendment (CPA2018-10008), Old Corkscrew Commercial

Dear County Commissioners,

As one of the two members of the public who testified against CPA2018-10008 at the recent LPA hearing, I would like to renew my concerns. It seems to me that Planning Staff's Summary Sheet misses the mark by omitting key points discussed at the LPA Hearing that contributed to the LPA's vote to not transmit the text amendments for this proposal.

Despite all of the talk about this project serving residential communities near the Old Corkscrew Golf Course, the method proposed to achieve this goal is to marry commercial uses of up to 100,000 square feet with Private Recreation Facilities in the DR/GR. (The Lee Plan defines these Private Recreation Facilities as nature trails, camping areas, boardwalks, play areas, horse stables and riding areas, service areas, administrative areas, ancillary uses, and golf courses.)

A 100,000 square foot commercial complex is clearly not consistent with these recreational uses. Marrying the concept of Private Recreational Facilities with a Neighborhood Commercial Development creates a Frankenstein zoning scheme. It makes a mockery of the statutory requirement that comprehensive plans provide for orderly and balanced development.

Please consider whether authorizing a 100,000 square foot commercial facility as an ancillary use to a golf course passes the sniff test. And, is it reasonable to authorize a 100,000 square foot commercial facility in conjunction with a horse stable or a nature trail? Grafting large commercial complexes onto Private Recreational Facilities creates an unnatural zoning scheme that is not compatible with the public welfare. Instead, it merely serves to benefit a particular property owner at this specific location in the DR/GR.

I hope that common sense prevails and that you will concur with the LPA that the text amendment for this proposal should not be transmitted.

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