

Correspondence Comprehensive Plan Text Amendment (Legislative and Countywide)

1. LETTER FROM THE SMSKA PRESIDENT JOAN DUNHAM-CARD

Sent: Sunday, May 11, 2014 9:33 PM

To: Harris, Ty

Subject: Changes to the Charlotte Comp Plan

Dear Ty,

After our conversation Wednesday I went home read and reread your column as well as other columns regarding the proposed changes to the Comprehensive Plan aka Charlotte 2050. Your argument is very comforting but the others raise some issues which are worrisome. So you can't blame me and others on Manasota and Sandpiper Keys for being a bit wary of these changes in the aftermath of a year long struggle to keep the Manasota and Sandpiper Keys Overlay Code and the protections it affords.

There are some weaknesses in the code regarding no fill and mangrove protection and it is because of these weaknesses that causes us to be concerned. Can you say Lemon Bay Cove? Since Manasota and Sandpiper Keys are designated Coastal High Hazard Areas I hope that you can assure me that transferring density from the mainland to the islands will not be an issue.

Unfortunately, I won't be attending the P&Z meeting tomorrow afternoon because it interferes with the regularly scheduled meeting of the South Manasota /Sandpiper Key Association (SMSKA). I say unfortunately because I know it will be instructive and a lot easier than wading through the whole Comp Plan. I admit I find it daunting.

Thank you for your time and I look forward to hearing from you, soon.

Sincerely,

Joan Dunham-Card, President

SMSKA

RESPONSE FROM COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR, TY HARRIS

Sent: Mon, May 12, 2014 7:32 am

Subject: RE: Changes to the Charlotte Comp Plan

Hey Joan, I hope this helps answer some of your concerns. I drafted a memo earlier this month and have pulled out the sections that specifically answer your questions.

TDU-related policies: The TDU ordinance in Article XX, Chapter. 3-5, Transfer of Density Units outlines the intent, applicability, and criteria for sending and receiving zones, as well as related procedures for transferring density. The proposed revisions to the Plan retain the intent, applicability and criteria, but eliminate the implementing regulations. The intent of the TDU program, the TDU Sending and Receiving zones related to different neighborhoods, and the requirement of Rural Receiving Zones are all retained in the Plan. Staff revised TDU related policies to be consistent with the existing TDU Ordinance. In addition, staff will not be proposing amendments to the existing TDU Ordinance as part of the revised LDRs.

Wetland/Natural Resource Protection: The goal to protect wetlands remains in the Plan (ENV Goal 3. Wetlands, avoid, minimize, or mitigate impacts to wetlands by restoration, enhancement, creation or local wetland mitigation banking, when available). However, the existing Plan establishes wetland categories which are inconsistent with the State/Federal categorization processes. Staff is proposing

removing these policies in order to be consistent with State and Federal requirements. Detailed information regarding State and Federal permitting and programs to protect natural resources such as wetlands and mangroves is as follows:

An Environmental Resource Permit (ERP) is required for multi-family, residential subdivisions and any non-residential single development. Florida implements a regulatory Environmental Resource Permit (ERP) program under independent state authority of Part IV of Chapter 373 of the Florida Statutes (F.S.). The ERP program operates in addition to the federal program that regulates activities in waters of the United States.

All state, regional, and local governments in Florida delineate wetlands in accordance with state methodology (Chapter 62-340, F.A.C.) instead of the federal method. A joint permit application is used with the U.S. Army Corps of Engineers (USACE); ERP applications are initially received by the Department of Environmental Protection (DEP), Water Management Districts (WMD), or delegated local government, who then forwards the joint application to the USACE. While the ERP application is issued, withdrawn, or denied in accordance with state statutory and rule criteria, agency action on the ERP application also constitutes any needed water quality certification (WQC, or waiver thereto) under Section 401 of the Clean Water Act and Coastal Zone Consistency Concurrence with Florida's federally approved Coastal Zone Management program under Section 307 (Coastal Zone Management Act), which then enables the USACE to take separate action to issue or deny any needed federal permit under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

Stormwater Construction National Pollutant Discharge Elimination System (NPDES) permits are not integrated into the ERP permit, and are issued separately. Florida also implements a separate permitting program for trimming or altering mangroves under Section 403.9321 through 403.9333, F.S., although mangrove trimming and alteration can be incorporated into an ERP permit.

Under Section 373.421, F.S., Florida has adopted a wetland delineation methodology that is binding on all state, regional, and local governments throughout Florida. This methodology was adopted as Chapter 62-340 of the Florida Administrative Code (F.A.C.), which is ratified in Section 373.4211, F.S., for statewide applicability. It became effective on July 1, 1994. This methodology is a unified statewide approach to wetland and other surface water delineation and is specific to Florida, in recognition of the vegetation, hydrologic, and soil features that specifically exist in Florida. Local governments are expressly preempted from defining wetlands or developing a delineation method that differs from the adopted State standards.

Florida's methodology differs from the Corps 1987 manual methodology in many respects, although the USACE methodology continues to be used separately by the federal permitting agencies in Florida. In real-world application, the state and federal wetland lines typically are very close or identical with one another, although, in certain areas of the state, significant differences do exist.

Florida has not produced a map of the wetlands as they would be delineated using the State methodology in Sections 373.421 and 373.4211, F.S. Instead, the Department's Office of Submerged Lands and Environmental Resources and District offices, as well as staff in the Suwannee River, St. Johns River, Southwest Florida, Northwest Florida, and South Florida Water Management Districts perform wetland delineations for a specific parcel of property on request or as part of a permit application review. There are three ways such requests for wetland delineations may occur:

1. By formal petition for a formal determination of the landward extent of wetlands and other surface waters. These determinations are done for a fee, depending on the size of the total parcel, are subject to specified time frames, typically require the petitioner to produce a survey of the

wetlands so delineated, and are binding on the petitioner and the state agencies for a period of five years (which may be extended).

2. As part of a permit application. There is no additional charge for this service above that required to process the permit application.

3. Through an informal determination. These are normally done only for private single family landowners. A fee of \$100 is required for these determinations, but they are done on an ?as-resources allow basis, are not subject to any time frames, and are not binding on any of the parties. Due to staffing limitations, there is increased reluctance of the district staff to do these, and property owners usually are encouraged to file a petition for a formal determination.

If a federal dredge and fill permit is required for an activity, it is up to the USACE to separately delineate the wetlands on the parcel using the applicable federal methodology. While the USACE determination may be done coincident with the state delineation, the two methodologies are not interchangeable, and often the wetlands delineated by each methodology is different, as mentioned above.

Residential Development within Coastal High Hazard Areas: Staff has no intention to revise or remove any objectives and policies set forth in the Coastal Planning Element.

For more information or any questions you may have call, fax, or email Mr. Ty Harris or the Board of County Commissioners- Charlotte County Government.:

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Charlotte County Board of County Commissioners

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