

Date: April 19, 2022

Sent via electronic mail

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Reference: Comments to consider for the April 21, 2022 Public Hearing; Comprehensive Plan adoption of changes to comply with the Peril of Flood Act

Dear Chairman Van Ostenbridge,

We have reviewed your staff's recommendation for the changes to the Comprehensive Plan required to comply with the Peril of Flood Act. The hearing on April 21, 2022 contemplates completion of a cycle of work that has been underway for almost 3 years. It is important to focus on the overall goal of the Peril of Flood Act and that is to reduce flood risk by preparing for coastal flooding and sea level rise; thus protecting the natural state of the county's important coastal habitats and providing strategies for development and redevelopment of vulnerable properties. The statute requires that Manatee County include a redevelopment component in the Coastal Management Element of the Comprehensive Plan with principles that must be used to eliminate inappropriate and unsafe development in the coastal areas - when opportunities arise.

Overall, the changes recommended by your staff maintain a balance embraced by the Comprehensive Plan, which prioritizes the protection of natural coastal habitat and environmental infrastructure, in lieu of development. Natural habitat and nature-based tools for flood protection provide the best defense against future impacts and your staff has maintained the objectives and policies in the Comprehensive Plan that are designed to protect these important community assets for future generations.

The act specifically uses strong language to reinforce that the comprehensive plan "plans and principles to be used **to control development and redevelopment to eliminate or mitigate the adverse impacts on coastal wetlands**; living marine resources; barrier islands, including beach and dune systems; unique wildlife habitat; historical and archaeological sites; and other fragile coastal resources."([F.S. 163.3178\(2\)\(b\)](#))

We know from public comments and a letter submitted to the Board, that a skewed interpretation of the statute is being leveraged by attorney Ed Vogler, representing developers in an attempt to weaken the County's important protections limiting seawalls and fill on coastal property. Mr. Vogler seeks to have the County embrace a strategy of proactively building seawalls and filling coastal wetlands for new

development, thus removing property from the flood risk that has triggered the new “Peril of Flood” requirements through armoring and developing our disappearing coastal habitat.

In support of this effort, he attempts to mislead the Board suggesting that the law requires they adopt new Comprehensive Plan policies providing principles, strategies, and engineering solutions such as seawalls and fill and new development engineered to minimize flood damage, because the current Plan fails to do so and is not in compliance with the law. We argue that the statute misrepresented by Mr. Vogler clearly limits the County’s consideration of Peril of Flood requirements to redevelopment, rather than new development as asserted by Mr. Vogler. F.S. 163.3178 (2)(f) specifically contemplates “*A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.*”

It appears that the staff has rightly rejected this cynical effort, and we hope that the Board follows suit. The County has numerous existing policies to *reduce flood risks or result in the removal of coastal real property from flood zone*. Some of these existing policies include:

Objective 4.3.1. - Development Type, Density and Intensity. - Limit development type, density and intensity within the Coastal Planning Area and direct population and development to areas outside of the Coastal High Hazard Area to mitigate the potential negative impacts of natural hazards in this area.

Policy 4.3.1.5. Maximize the clustering of uses in the Coastal High Hazard Area.

Policy 3.3.2.2. Require the preservation of native upland habitat during land development activities through the following strategies:...

Policy 4.4.2.3. Minimize the location of development within areas of the CEA which have sustained recurring hurricane related damage.

Implementation Mechanism(s):

- (a) Development of possible strategies for the fee simple acquisition of repetitive loss properties.
- (b) Development of zoning and other mitigative techniques to reduce the probability of future property loss due to a storm event.
- (c) Development of possible acquisition strategies for suitable environmentally sensitive properties.

In what appears to be a token acknowledgment or attempted appeasement to Mr. Vogler’s clients’ interests, staff added a new Policy 4.4.4.9. under **Objective 4.4.4. – Redevelopment Component to Reduce Flood Risk and Eliminate Inappropriate and Unsafe Development in the Coastal Areas**. This proposed policy would:

“Consider new development and redevelopment that employ site development techniques that reduce flood losses and claims made under flood insurance policies, and withstand inundation, minimizing flood damage to structures through flood-proofing techniques and strategies.”

Our concern is this language was not included in the original transmittal, nor was it part of any recommendations from the state to correct any deficiencies when the board transmitted its changes to the comprehensive plan. Policy 4.4.2.3 as cited above already provides options under (b) *Development of zoning and other mitigative techniques to reduce the probability of future property loss due to a storm event*. So not to cause confusion as to how this language is to be interpreted, this new policy language should be removed from the final adoption. This new policy is simply not needed. It could also be viewed as being inconsistent with Section 163.3178. If the state did not see a need for it, we question why it is here at the last minute.

We thank the board for their consideration of our comments and concerns. As in the past we stand by to work with the county to protect our environment, including maintaining and enhancing the coastal areas that are so important to our quality of life and our economy. We also want to thank the county staff for their time and commitments made in the changes to our comprehensive plan.

Respectfully submitted by the following organizations,

Rusty Chinnis, Chairman
Suncoast Waterkeeper

TBWK
SCWK
MF&G
Manasota 88
LWV
Sierra
Audubon
Native Plant Society
FISH