

COLEMAN, YOVANOVICH & KOESTER, P.A.
ATTORNEYS AT LAW

Kevin G. Coleman
Richard D. Yovanovich
Edmond E. Koester
William M. Burke
Gregory L. Urbancic
Matthew L. Grabinski
Craig D. Grider

NORTHERN TRUST BANK BUILDING
4001 TAMiami TRAIL NORTH
SUITE 300
NAPLES, FLORIDA 34103
239-435-3535
239-435-1218 FACSIMILE
www.cyklawfirm.com

Linda C. Brinkman
Matthew M. Jackson
Jeffrey J. Beihoff
Harold J. Webre
Caroline M. Magliolo
Charles A. B. Thomson
David Kerem
Michael D. Gentzle

Writer's Email:
ryovanovich@cyklawfirm.com

Of Counsel:
Kenneth R. Johnson

April 25, 2013

Mr. Corby Schmidt, AICP
Principal Planner
Collier County Growth Management Division
Comprehensive Planning Section
2800 North Horseshoe Drive
Naples, Florida 34104

RE: *Sufficiency Response to Growth Management Plan (GMP) Amendment Petition CP-2013-4 Comments; proposed Redesignation of RFMUD Neutral Lands to Receiving Lands*

Dear Mr. Schmidt,

Pursuant to the review comments received from Collier County dated March 25, 2013 and April 8, 2013, our project team offers the following responses (in **bold**) for your review and approval of the subject GMP Amendment Application:

Comprehensive Planning Comments related to the application form:

Page 3

III.F. RFMU is a zoning “overlay district” – Correct response to read: “(A) Rural Agricultural District; “Rural Fringe Mixed Use Overlay District – Neutral **Lands**”. [*emphasis added*]

III.H. As with “F” above, correct response to be: “Agricultural/Rural Designation, Rural Fringe Mixed Use District, Neutral **Lands**”

IV.C. Correct to read: From: “Agricultural/Rural Designation, Rural Fringe Mixed Use District, Neutral **Lands**” To: “Rural Fringe Mixed Use District, Receiving **Lands**”

Response: Page 3 of the Application has been revised to reflect the requested changes.

Page 4

- V.A.1. Response would likely read: “see Exhibit “A” or “refer to Exhibit “A”
- V.A.2. Response would likely read: “see Exhibit “B” or “refer to Exhibit “B”
- V.A.3. Response would likely read: “see Exhibit “A” or “refer to Exhibit “A””; OR, REFER TO EXHIBITS “A” & “B”, GENERAL LOCATION MAP & AERIAL, HERE
- V.B.1 Response would likely read: “see Exhibit “C” or “refer to Exhibit “C”
- V.C.1. Response would likely read: “see Exhibit “E” or “refer to Exhibit “E”
- V.C.2. Response would likely read: “see Exhibit “E” or “refer to Exhibit “E”. Please note that the standard application form language regarding applicants providing “*plant and animal species known to occur on the site and/or known to inhabit biological communities similar to the site*” is non-instructive in this situation. In other application materials, the plant and animal species on the subject property are identified as evidence of significant hydrologic changes described. Providing a single sample of species known to a similar site does little to substantiate this claim. Prepare and submit at least one survey conducted prior to the changed conditions and at least one such survey conducted as, and/or after conditions changed. *See also comments for “Exhibit G.” below.*

Response: The application has been revised to identify the various components as Exhibits. Included with this submittal is Exhibit G-1, a copy of the Listed Species Survey Report for Olde Florida Golf Club dated October 15, 2008. The report references listed species that were documented occurring on the property and listed species that have potential to occur on the property.

Pages 4 & 5

V.D.4 Expand this written response. Provide interpretative explanations of the map figures (presently) found in Exhibit “I”. Provide the details regarding causes and changes impacting the site’s characteristics. Then either include two sets of the raw data (particularly baseline conditions and long-term sampling) in this response that substantiates the actual events and physical changes pertaining to:

- Surrounding canals (from County and Regional water management agencies);
- Nearby water well-field (from County water service);
- Hydrological “changes”;
- Other relevant changes;

and the direct effects and apparent results evident on the property; or, you may choose to reference such data here, and submit the actual support materials as inclusions to the application package.

- Drier wetland areas and depressed water table;
- Confirmation from the appropriate State and federal agencies that certain plant habitat(s) have been reclassified;
- “significant” spread of vines and ivies;
- Other measurable and quantifiable effects.

Application materials are lacking certain backup data that will be necessary for substantive approval. Submit real or anecdotal evidence that changes have been observed in the amount, variety and behavior of wildlife. Explain all efforts and practices to identify, protect and conserve your vegetative communities and wildlife habitat, in accordance with the LDC. Produce PUD monitoring reports, maintenance logs, water test results, historic and current photographic images of canals, preserves and other plant areas, and wildlife, as would be beneficial to illustrate conditions described in the written response to application item V.D.4.

Establish a direct scientific cause and effect relationship between the hydrological conditions and vegetative habitats. Describe and discuss the Olde Florida Golf Club maintenance practices, protections and caretaking activities historically taking place on the subject property, especially in areas now identified where exotics or nuisance species are not under control.

Response: Included with this submittal is Exhibit G-2, a copy of the original South Florida Water Management District (SFWMD) Wetland Delineation and correspondence letter dated August 8, 1990. Also included is Exhibit G-3, a copy of the revised SFWMD Wetland Delineation and correspondence letter dated May 28, 1992. Exhibit G-4, a copy of the current SFWMD Wetland Delineation and correspondence letter dated December 15, 2010, is also included with this submittal. Also included are Exhibit G-5, a copy of the original U.S. Army Corps of Engineers (ACOE) Wetland Delineation and correspondence letter dated May 14, 1990; Exhibit G-6, a copy of the revised ACOE Wetland Delineation and correspondence letter dated December 15, 1993; and Exhibit G-7, a copy of the current ACOE Wetland Delineation and correspondence letter dated July 6, 2011.

WilsonMiller, Inc. (Stantec) performed several site visits with SFWMD and ACOE field representatives over the years, has installed and monitored numerous groundwater monitoring wells and has provided state and federal agencies with the above-referenced data. The original wetland determinations, performed in the early 1990's, were based on the presence of hydrophytic vegetation and approximately 245 acres of the site was considered jurisdictional wetlands by SFWMD and ACOE. The G-3 May 28, 1992 SFWMD Memo mentions grape vine and poison ivy dominating the understory throughout the transitional areas. The Memo also mentions the site hydrology altered by Immokalee Road and the Cypress Canal. The groundwater well data collected by Stantec over the years indicated a majority of the site does not meet the state and federal criteria for wetland hydrology or hydric soils criteria for wetland soils. Currently, SFWMD has asserted wetland jurisdiction over five (5) isolated areas totaling 30.88 acres. Four of the five wetland areas claimed by SFWMD are the result of surface soil removal years ago, creating depressions that retain surface waters for longer periods than would have the undisturbed surface areas. The fifth area, being approximately 19 acres located in the center of the undeveloped area west of the existing golf course, is also the result of surface disturbance. In this instance the natural surface flow to the south was partially blocked during the surface soil removal south of the 19 acre area, again causing surface water to be retained for longer periods than would have occurred in the natural undisturbed surface conditions. Please see the Project Site Description, Project Background and Wetlands on Exhibit G-4 page 2 of 4 of the December 21, 2010 SFWMD Staff Report for more detailed information. Currently, the ACOE considers the above-referenced five (5) scrape down

areas “isolated wetlands” and pursuant to the Supreme Court decision (SWANCC), isolated waters are not jurisdictional under the Clean Water Act. Please see the Project History and Jurisdictional Determination on Exhibit G-7 pages 1, 2, 3 and 6 respectfully of the July 6, 2010 ACOE Memorandum of Record for more detailed information. The G-7 July 6, 2011 ACOE Memorandum of Record (MOR) mentions the surrounding canals having a significant impact on the area’s hydrology, as the site is bounded by the Cocohatchee Canal to the north, Curry Canal to the east and the Cypress Canal to the south. The MOR mentions the 1993 wetland boundaries were smaller based on the area’s lowered water table. The MOR mentions the cypress trees are covered with poison ivy and ground cover dominated by muscadine grape that resemble other wetland areas in Golden Gate Estates where the hydrology has been removed. The MOR also mentions the groundwater well data submitted by Stantec tends to correspond with relative water levels in the Cypress Canal which is controlled between 9.75 and 10.5 feet, with ground elevation on the property varying from 13.5 feet in the north to 12.7 feet in the south.

The Olde Florida Club project is not a Planned Unit Development (PUD) and no PUD monitoring reports, maintenance logs or water tests results were required. The native habitats within the undeveloped portions of Olde Florida Golf Club (Phase 2) were not required to be maintained by SFWMD, ACOE or Collier County. However, Phase 2 was fenced for the prevention of trespassing, poaching, and illegal dumping.

Color photographs documenting current site conditions on the Olde Florida Golf Club site are included with this submittal as Exhibit G-8, pages 1 through 10. The photographs of cabbage palm and pine/cypress/cabbage palm habitats clearly show the ground cover dominated by muscadine grape and a combination of poison ivy and muscadine grape surrounding/strangling canopy and sub-canopy species. The dominance of muscadine grape in the ground cover is often an indicator of lowered groundwater tables on a site. The photographs of the cypress habitats clearly show the sub-canopy dominated by cabbage palm and Brazilian pepper, indicating the historically wetland habitat is transitioning to a dryer community due to hydrological impacts.

- V.E.1.a. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Potable Water”
- V.E.1.b. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Sanitary Sewer”
- V.E.1.c. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Arterial & Collector Roads; Name of specific road and LOS”
- V.E.1.d. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Drainage”
- V.E.1.e. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Solid Waste”
- V.E.1.f. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”-Parks: Community and Regional”
- V.E.2. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”
- V.E.3. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”

Response: The application has been revised to identify the various components as Exhibits.

Page 6

- V.F.1. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”
- V.F.2. Response would likely read “see Exhibit “I” or “refer to Exhibit “I”
- V.F.3. Response would likely read “N/A”
- V.F.4. Response would likely read “N/A”
- V.F.5. Response would likely read “N/A”

Response: The application has been revised to identify the various components as Exhibits.

Comprehensive Planning Comments related to specific exhibits

All of the Exhibits should be labeled in the *lower right corner of each Exhibit page* for ease of finding and consistency throughout. Show dates on exhibits reflecting their dates of preparation. Show the subject property location on map figures – preferably by outlining its shape and size to scale. Realize that the reviewers of this application will include lay persons, including members of the EAC, CCPC, and the BCC.

Response: All exhibits are labeled.

Exhibit G. (Listed Species Summary Table)

This petition seeks re-designate RFMUD Neutral Lands (with certain “before” characteristics) to RFMUD Receiving Lands (with certain “after” characteristics). Application exhibit does not present it in “before” and “after” form, considered necessary to evaluate the request. *See also comments for “V.C.2.” above.*

Response: Included with this submittal is Exhibit G-1, a copy of the Listed Species Survey Report for Olde Florida Golf Club dated October 15, 2008. The report references listed species that were documented occurring on the property and listed species that have potential to occur on the property.

Exhibit I. (Public Facilities Report)

Application exhibit provides the public facility level of service information associated with Application Section “E”. Exhibit I also currently provides map figures that are not associated with public facilities. These appear to be pages copied from a “CDM”-prepared 2008 plan update and an un-labeled FEMA flood zone map combined with letters confirming availability of certain public services to the site. Separate this exhibit in to two or more individual exhibits that are clearly connected to separate submittal requirement entries or groupings, re-label and properly reference in application page entries. Clearly explain an exhibit’s relevance and always accompany an exhibit with an interpretation.

More than one item [an exhibit within an exhibit] is labeled the same. Modify letters, labeling and exhibits to properly reference items made part of the application package.

Generally, the burden is on the applicant to demonstrate the justification and the need for this amendment. Staff's approach is to look for conclusive data and analysis to that effect. A GMP amendment such as this will also be evaluated for impacts upon infrastructure, compatibility considerations, etc. It is particularly important that application materials assess and report any impact, however small, on surrounding properties.

Response: The various exhibit pages contained in Exhibit I have been renumbered accordingly. Below is a brief explanation of each exhibit herein, and its relevance to the project and the proposed amendment.

Exhibits I-1 - 1-4: Identifies the existing Level of Service Standard (LOS) and the impact of the changes proposed with this amendment on the public facilities, including potable water, sanitary sewer, drainage, solid waste, community and regional parks, county jails and emergency medical facilities.

Please note this Public Facility Report (Exhibits I-1 thru I-4) does not specifically address the LOS and the impact on arterial and collector roads. Analysis for these public facilities is provided within the enclosed Traffic Impact Statement, which is identified as Exhibit J.

In summary, the proposed amendment poses no negative impact to the public facilities identified above.

Exhibit I-5: Identifies the various special hazard areas or flood zones relating to the subject property.

Exhibits I-7 - 1-8: Utilizing the 2008 Water Master Plan Update prepared by CDM, the locations of existing and proposed wells, cones of influence and potential wellfield areas adjacent to the project have been identified.

In summary, the facilities shown in the provided exhibits, and adjacent to the project, identify the County's raw water supply wells and potential future areas which support the drinking water supply to the public. Since it is likely that any future development would utilize the existing Collier County potable and sanitary services, additional potable water wells and septic systems to support any future development would not be necessary.

Exhibits I-9 - 1-19: Availability of Service Requests and Responses from Utility Providers, including Collier County Public Utilities, Florida Power & Light, Comcast, CenturyLink and Golden Gate Fire Control & Rescue District.

In summary, Utility Providers have no objections with the proposed amendment and can provide service to the project.

Prepare and submit an analysis of the impact approval of the proposed amendment will have on the County's Transfer of Development Rights program.

Response: The TDR program is a voluntary program and the success of the program has been and is based on market conditions. In order to achieve a successful TDR program, willing sellers and buyers are necessary. By designating additional lands as receiving areas provides additional lands for owners of TDR's to transfer their TDR's, furthering the goal of converting sending lands to a conservation use.

Public Utilities Planning and Project Management Sufficiency Comments:

This application package is adequate and sufficient to enable staff to conduct a formal [substantive] review concerning public utilities.

Response: Acknowledged.

Transportation Planning Sufficiency Comments:

Collier County Transportation Planning staff has not completed their review of the traffic study/impact statement for completeness, and their determination and comments on sufficiency matters remain pending and forthcoming.

April 2, 2013 Update: Collier County Transportation Planning staff has completed their review of the traffic study/impact statement for completeness. The Olde Florida Golf Club GMPA CP-2013-4 can be found sufficient for review purposes. The (Stantec) TIS [dated April 1, 2013] should supersede the TIS in the document that was distributed to Staff.

[paraphrased]

Response: For clarification purposes, the submittal of April 1, 2013 was an intersection analysis of Vanderbilt Beach Road/Collier Boulevard; it was submitted to supplement the original TIS; it does not supersede the original TIS.

Stormwater and Environmental Planning Sufficiency Comments:

This application package is not adequate and sufficient to enable staff to conduct a formal [substantive] review concerning environmental matters.

The application package provides a FLUCFCS Code map with standard modifier identifying percent exotic and nuisance vegetation coverage for environmental review. Also provided are native vegetation retention calculations based on the FLUCFCS Code map provided. A listed species survey for the site is not provided, but a list of state and federal listed species known to inhabit biological communities similar to those found on site is.

Provide a listed species survey, and historic and archaeological survey for the property, as required on the standard application for GMP amendments. In addition to being used by staff, I'm sure the review boards and public will also want to see this information. Also provide the wetland jurisdictional determination(s) pertaining to the subject property.

Response: Included with this submittal is Exhibit G-1, a copy of the Listed Species Survey Report for Olde Florida Golf Club dated October 15, 2008. The report references listed species that were documented occurring on the property and listed species that have potential to occur on the property. The current South Florida Water Management District (SFWMD) jurisdictional wetland determination and correspondence letter is included as

Exhibit G-4. The current U.S. Army Corps of Engineers (ACOE) jurisdictional wetland determination is included as G-7.

Included with this submittal is Exhibit H-1, the Archaeological Consultant Summary dated April 23, 2013. The applicant will provide the full report when received from the Consultant, Archaeological and Historical Conservancy, Inc.; however, the summary is sufficient for moving the application forward through the review process.

Closing remarks:

The original application and copies are available for pick-up (one copy is kept for the file). Once the petition has been modified/enhanced to address the above items, re-submit the original plus four copies, all properly assembled, for a second sufficiency review. Paragraph C. of Resolution No. 12-234 provides 30 days for you to respond to this letter with supplemental data.

Since there is uncertainty as to the timing of this application moving forward to transmittal hearings, the applicant may wish to request a second 30 day time period, in accordance with Resolution No. 12-234, beyond 30 calendar days from the date of this letter to remedy the deficiencies. Also, note that this is not a substantive review and that the substantive review will not be completed until this application has been found sufficient.

Response: Acknowledged.

Very truly yours,



Richard Yovanovich

cc: William Barton