

EXECUTIVE SUMMARY

Recommendation to approve by Ordinance the KRG Courthouse Shadows, LLC Small-Scale Amendment to the Collier County Growth Management Plan, Ordinance 89-05, as Amended, and to Transmit to the Florida Department of Economic Opportunity. (Adoption Hearing) (PL20180003659/CPSS-2019-1)

OBJECTIVE: For the Board of County Commissioners (Board) to approve (adopt) the proposed small-scale Growth Management Plan (GMP) amendment for transmittal to the Florida Department of Economic Opportunity.

CONSIDERATIONS: The subject petition is submitted as a small-scale comprehensive plan amendment. As such, per *Florida Statutes*, the request is heard only once by the Collier County Planning Commission (CCPC) and the Board. If approved by the Board, the petition is transmitted to the Florida Department of Economic Opportunity (DEO).

This petition seeks to amend the Future Land Use Map (FLUM) inset map for Mixed Use Activity Center #16 to depict the affected 10-acre area, and the Bayshore/Gateway Triangle Redevelopment Overlay (B/GTRO) text within the Future Land Use Element (FLUE) to revise provisions regarding the uses and density allowed within the affected area, for a site located off-frontage, south of the intersection of Tamiami Trail East, (US 41) and Airport-Pulling Road South, and south and east of Peters Avenue, in Section 12, Township 50 South, Range 25 East. These ten acres comprise a portion of the 20.35-acre Courthouse Shadows Planned Unit Development (PUD). The map and text proposed for change by this amendment is depicted on Ordinance Exhibit A.

More specifically, the petitioner proposes to amend the B/GTRO provisions to allow a residential density increase of 12.8 dwelling units per acre (DU/A) or 128 DUs; these DUs are limited to rental apartments only and to the 10-acre portion of the PUD that is the subject of this GMP amendment petition. Density allowances already existing in the FLUE would allow an additional 172 DUs, for a total of 300 DUs, within that portion of the Courthouse Shadows PUD proposed to allow mixed uses via the companion PUD amendment (PUDA) petition. The FLUE does not limit these 172 DUs to apartments – they could be single family or multi-family, rental or fee simple ownership – but the companion PUDA does. As the subject site is presently zoned commercial, which has no assigned residential density, none of the proposed density is an entitlement. *Refer to the table below.*

FLUE Provision	Density
GMP Amendment	12.8 DU/A x 10 acs. = 128 DUs
Mixed Use Activity Center density	4 DU/A x 18.8 acs. within PUD proposed for mixed use = 75 DUs
Bayshore/Gateway Triangle Redevelopment Overlay density bonus pool	97 DUs
SUM	300 DUs

Per Chapter 163.3187, Part II, Florida Statutes, limitations are in place for this type of small-scale amendment, as identified below, followed by staff comments *[italicized in brackets]*.

- (1) A small scale development amendment may be adopted under the following conditions:
 - (a) The proposed amendment involves a use of 10 acres or fewer. *[The proposed amendment pertains to a 10-acre property.]*
 - (b) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section. *[This amendment involves text changes that relate directly to site-specific Future Land Use Map changes.]*
 - (c) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). *[The subject property is not within an Area of Critical State Concern.]*
- (4) Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177. *[The amendment preserves the internal consistency between and among GMP elements.]*

FINDINGS AND CONCLUSIONS: Based on the review of this petition, including the supporting data and analysis, staff makes the following findings and conclusions. More analysis is provided in the Staff Report to the CCPC.

- The site is currently zoned CPUD and developed with a 30-year-old commercial shopping center. The entire Courthouse Shadows PUD is designated Mixed Use Activity Center Subdistrict on the FLUM, which allows and encourages mixed use development, and lies within the boundaries of the Bayshore/Gateway Triangle Redevelopment Overlay, an area where numerous incentives promote redevelopment projects.
- The site lies within the South US 41 TCEA (Transportation Concurrency Exception Area), an area where it may require employment of Transportation Demand Management (TDM) strategies to reduce traffic impacts.
- The site also lies within the Coastal High Hazard Area (CHHA). However, the companion PUDA includes mitigation, and both US 41 East and Airport-Pulling Road South are hurricane evacuation routes.
- The site is proximate to major employment opportunities, goods and services, and public transit.
- Analysis indicates that projected population growth provides sufficient demand for market-based apartments.
- At the macro level at which a GMP amendment is reviewed, staff is of the opinion that the proposed GMP amendment is compatible with surrounding properties. The companion PUDA petition will need to address specific compatibility measures.
- No issues regarding impacts upon potable water, wastewater collection and treatment or solid waste collection and disposal services have been identified, nor concerns for impacts upon other public infrastructure.

- The proposed GMP amendment has no effect on the requirements of the Conservation and Coastal Management Element (CCME), and there is no action or design required by Policy 12.2.6 beyond that which is already required by existing regulations (regarding sanitary sewer facilities within the CHHA).
- People attending the Neighborhood Information Meeting expressed a strong consensus that developing the property needs to take both vehicular and pedestrian traffic and safety into consideration.
- A companion PUDA petition has been submitted concurrent with this GMPA petition to permit 300 market rate rental apartments. Approval of this amendment, and the companion PUDA, would allow the subject property to develop with any one or more of the commercial uses already permitted, or with a mixed use (commercial-residential) project.
- A commitment will be fulfilled through the companion PUDA to provide contact phone number(s) to the public for 24-hour responses to their concerns during the construction of the residential component of the project. This commitment may also include the period during the demolition of the commercial building(s).

FISCAL IMPACT: Petition fees account for staff review time and materials, and for the cost of associated legal advertising/public notice for the public hearings. No fiscal impacts to the County result from approval of this petition.

GROWTH MANAGEMENT IMPACT: Adoption of the proposed amendment by the Board and its transmittal to the Florida Department of Economic Opportunity will commence the Department's thirty-(30)-day challenge period for any affected person. Provided the small-scale development amendment is not challenged, it becomes effective thirty-one (31) days after Board adoption.

LEGAL CONSIDERATIONS: This Growth Management Plan (GMP) amendment is authorized by, and subject to the procedures established in, Chapter 163, Part II, Florida Statutes, the Community Planning Act, and by County Resolution No. 12-234, as amended. The Board should consider the following criteria in making its decision: "plan amendments shall be based on relevant and appropriate data and an analysis by the local government that may include but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." 163.3177(1)(f), FS In addition, s. 163.3177(6)(a)2, FS provides that FLUE plan amendments shall be based on surveys, studies and data regarding the area, as applicable including:

- a. The amount of land required to accommodate anticipated growth.
- b. The projected permanent and seasonal population of the area.
- c. The character of undeveloped land.
- d. The availability of water supplies, public facilities, and services.
- e. The need for redevelopment, including the renewal of blighted areas and the elimination of non-conforming uses which are inconsistent with the character of the community.
- f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
- g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
- h. The need to modify land uses and development patterns with antiquated subdivisions.

- i. The discouragement of urban sprawl.
- j. The need for job creation, capital investment and economic development that will strengthen and diversify the community's economy.

And FLUE map amendments shall also be based upon the following analysis per Section 163.3177(6)(a)8.:

- a. An analysis of the availability of facilities and services.
- b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.
- c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

This item is approved as to form and legality. It requires an affirmative vote of four for approval because this is an Adoption hearing of the GMP amendment. *[HFAC]*

STAFF RECOMMENDATION TO THE COLLIER COUNTY PLANNING COMMISSION: That the CCPC forward petition PL20180003659/CPSS-2019-1 to the Board with a recommendation to adopt and transmit this small-scale amendment to the Florida Department of Economic Opportunity.

COLLIER COUNTY PLANNING COMMISSION (CCPC) RECOMMENDATION: The CCPC heard this petition at their September 19, 2019 meeting and voted [6/0] to forward petition PL20180003659/CPSS-2019-1 to the Board with a recommendation to approve for adoption and transmittal to the Florida Department of Economic Opportunity. One public speaker expressed concerns about how stormwater outfall will be handled into Henderson Creek but that is more appropriate matter for consideration with the companion PUD amendment.

STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS: Same as to the CCPC – to adopt and transmit petition PL20180003659/CPSS-2019-1 to the Florida Department of Economic Opportunity.

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