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Sent via email

Chairman Ron Cutsinger, and
members of the Sarasota County Board of County Commissioners
1660 Ringling Blvd.
Sarasota, Fla. 34236

**Re: Nov. 28 Meeting Regarding Proposed Comprehensive Plan Amendments Regarding
Transient Accommodation Density**

Dear Chair Cutsinger,

I write on behalf of my client Ms. Lourdes Ramirez to urge the County to deny each of the multiple applications for amendments to the Comprehensive Plan and Unified Development Code that would increase the number of hotel rooms per acre and / or the height or intensity of hotels on the County's Barrier Islands. The extensive research and analysis of the County's comprehensive plan and zoning history, and of studies and staff reports my client and I conducted for the recently – concluded litigation over County Ordinance 2021-047 and the Calle Miramar Special Exception revealed an abundance of facts and considerations which we submit should cause the Commission to categorically reject any proposals to increase such densities beyond the 26 hotel rooms per acre allowed by the Code on Siesta Key prior to the adoption of the soon to be repealed County Ordinance 2021-047.

Among the key facts and considerations revealed by the County's comprehensive plan and zoning history, planning studies and staff reports, and information generally available to the public that should make any of these requests to change the existing rules a non-starter, are:

- The County has strictly limited hotel density on Siesta Key since the early 1960s because of the triple -whammy of being a (1) Barrier Island; (2) a Coastal High hazard Area; and (3) within Hurricane Evacuation Zone A – which “ha[s] the greatest exposure of citizens and properties” to hurricane impacts.¹
- In 1973, citing studies that stressed the importance of preserving and limiting the urbanization of the offshore islands, the County reduced densities in the Residential Multi-

¹ Comp. Plan Vol. 2, p. V2-279

Family zoning district on Barrier Islands to a maximum of 13 dwelling units per gross acre. (Ord. 73-20)

- County Ordinance 75-26 included “Findings of Fact” that:

“Studies ... stress the **importance of preserving where possible, and limiting in all instances the urbanization of the offshore islands** which are a major natural resource of the State of Florida” [...]

“**ordinance No. 73.20 ... recognized the need to lower density on the offshore barrier islands, namely Siesta [among other] Keys ...**”

- A 1979 study found that evacuation was a concerning problem on Siesta Key, raised a concern for the island’s environment, and found that the densities and intensities should not be increased. (Pet. Ex. 44; Harrington Tr. 11.17.22; p. 124, line 14 – p. 125, line 4)
- The 1981 Comprehensive Plan stated:

“Problems associated with development on the barrier islands... relate to the detrimental effect of building along the active beach areas; to the potentially adverse impact that over-development of the Keys could have on the County’s resort-retirement economy; and to the difficulties of evacuating large numbers of people from the Keys in time of emergency. Were the Keys not already developed, Apopsee would probably include them in the rural or semi-rural areas and encourage their total preservation.” (1981 Comp. Plan, p. 363)

[...]

“[This Plan] **reflects reductions in zoning be considered to lessen the consequences any development may have on the identified problems). Areas already developed at densities lower than the zoning district within which they are located should be appropriately down zoned.**” (Id.)

- Among the 1981 Plan’s adopted provisions was Program #8:

“**The intensity of future development on the barrier islands ... shall not exceed that allowed by existing zoning.** Parcels already developed at densities less than that permitted by the existing zoning **should be down zoned** to the zone district most closely corresponding to the existing development on the parcel taking into consideration existing plats. **Parcels which are undeveloped and zoned Commercial General (CG) uses are to be down zoned to a less intensive zoning district category.**” (1981 Comprehensive Plan, p. 366g)

- The 1989 Plan support material identified Barrier Islands as being “of special concern” and posing “special considerations “due to hurricane evacuation and storm damage “problems” and “sensitive” coastal habitats” “**which necessitates treating the Barrier Islands separate from the urban areas.**” (1989 Comprehensive Plan, p. 432)

- The 1989 Plan stated that:

“Previously, it was recognized that total preservation or conservation of the Barrier Islands was preferable, but development of one dwelling unit per acre was acceptable, consistent with development patterns on Manasota and Casey Key. **Higher densities found on Siesta Key were recognized yet prohibited from further increases as was evidenced from the 1979 Planning Department Study, and subsequent down zoning in 1982, consistent with Apoxsee.**” (p. 432) [...]

“Thus the **reduction of densities on the Barrier Islands is encouraged** particularly in locations where ... the underlying zoning is more intense than the existing use. (p. 432)

- The current Comprehensive Plan’s data and analysis explains that **residential and commercial densities and intensities are “minimized on the offshore barrier islands due to their inherent environmental limitations and the difficulty of providing safe and efficient transportation and other community facilities.”** (2016 Comp. Plan, p. 25)

- The current Plan states that:

“**Concern for the future development and redevelopment** of the Barrier Islands warrants special consideration, which **necessitates treating [them] differently than the urban areas....**” (Comp Plan, Vol. 2, p. V2-320 – 321)

- The Plan’s Data and Analysis also states that “Barrier Islands” are recognized as:

“**as a unique land use category. Development on the Barrier Islands is of special concern due to problems associated with hurricane evacuation, potential for storm damage and the sensitive nature of coastal habitats.** Previously, it was recognized that total preservation or conservation of the Barrier Islands was preferable, but development of one dwelling unit per acre was acceptable.... The **higher densities found on Siesta Key were recognized, yet prohibited from further increases by a 1979 Planning Department Study, and subsequent down zoning in 1982.**” (Comp Plan, pp. V2-320 – 321)

- The Plan’s support document also states:

“**The greatest route constrictions in the county are on exit routes from the barrier islands** to the mainland, or from the Venice area, heading toward I-75.” (2016 Comp. Plan, Vol. 2, p. V2-292)

- The 2016 Comprehensive Plan states:

“Evacuation Route capacity and road constraints can seriously impact hurricane evacuation times. Since several barrier island/coastal mainland evacuation routes serve as collectors and tie into US 41 and SR 775, smooth evacuation is impaired at points where bottlenecks occur along these routes. **Siesta and Longboat Keys, with their higher densities, generate the longest evacuation times.**” (Comp Plan, p. V2-290)

- The Plan’s support document also states:

“**reduction of densities on the Barrier Islands is encouraged** particularly in locations where ... the underlying zoning is more intense than the existing use.” (Comp Plan, Vol. 2, p. V. 2-321).

Since these Plan and their supporting documents were written, new understandings of hurricane development have only strengthened the need for precluding density increases on the County’s Barrier Islands. The phenomenon of Rapid Intensification of hurricanes has increased significantly in recent years, as warmer waters in the Gulf of Mexico have created the conditions under which a storm that does not appear to require evacuation rapidly increases strength, leaving inadequate time for all to evacuation once it becomes clear that an area will be hit by a major hurricane.² Hurricane Ian, which barely missed direct landfall in Sarasota County, caused **over \$100 Billion in damage³ and resulted in over 100 deaths.⁴**

The realities of the Siesta Key – specific geography and road network also cannot support a change in policy to now allow increased hotel densities on that Barrier Island, for several reasons, including:

- The narrow roads residents and visitors rely upon to evacuate from Siesta Key to the mainland are already over their capacity and are physically constrained against expansion.⁵
- The County Comprehensive Plan Mobility Element, Data and Analysis at page V2-404 explains that the County’s “acceptance of constrained...roadways... presumes an additional responsibility on the part of the county in its review and approval of development orders: to base such decisions on maintaining the existing level of service of such roadways and to not allow the existing operating conditions to be degraded.”

² <https://www.npr.org/2023/08/30/1196875261/idalia-went-through-rapid-intensification-youre-likely-to-see-the-term-more-ofte>

³ <https://www.fema.gov/press-release/20230928/one-year-later-hurricane-ian-recovery-continues-nearly-87-billion-federal>

⁴ <https://abcnews.go.com/US/multiple-deaths-reported-hurricane-ian-slams-florida/story?id=90693636>

⁵ Comp. Plan, Vol 1, Element 4 Mobility, Table 1-4, Page V1-431; Vol 2, Element 4 Mobility, Table 10-3, pp. V2-411 and 412, p. V2 - 417, Table 10-4.

Next, County planning staff analysis and deposition testimony concerning the proposed Calle Miramar hotel application revealed several facts and considerations that make increased hotel densities on Siesta Key a major problem, including.

- Managing pedestrian traffic on Siesta Key is currently a problem that would be worsened by increasing hotel room density. (Harrington Deposition 11.17.22, pp. 152 – 153)
- The Sarasota Manatee Metropolitan Planning Organization (MPO) identified Siesta Key Village as having dangerous intersections, prone to frequent accidents, with a number involving pedestrians and bicyclists. (Calle Miramar Staff Report 8.19.21, pp. 23, 26; Calle Miramar Staff Report 10.27.21, pp. 18, 26).
- Siesta Key already has a current problem with emergency vehicles, like ambulances, being able to get through Siesta Key on their way to pick up or deliver someone who needs emergency services. (Harrington Deposition 11.17.22, pp. 66, 92).
- Increasing pedestrian activity from hotels may lead to more pedestrian-related accidents at or near beach access points. (Calle Miramar Staff Report 10.27.21, p. 18; Harrington Deposition, Tr. 11.17.22, p. 89, line 21 – p. 90, line 13).
- Increasing the number of hotel guests in the area would represent a significant increase in visitors to this section of the village and nearby beach access points, creating “[i]ncreased potential for accidents, including bicycle and pedestrian-related incidents”. (Calle Miramar Staff Report 8.19.21, p. 23; Calle Miramar Staff Report 10.27.21, pp. 23 and 26)
- Because “[n]atural or man-made evacuation events may occur quickly with minimal early forecasts or public notice for evacuation”⁶, [a]ny persons and vehicles present during an evacuation event will have an impact....”⁷
- “consideration should be given to the potential for transient guests having to utilize county shelter space and the amenities provided therein, which can impact residents, county assets and shelter staffing.”⁸

All of these factors, and more, are the basis for the Plan’s current and long – standing limitations on the number of hotel rooms per acre that can be built on barrier Islands, As a matter of law, any person or entity purchasing land in Siesta Key since that time is on notice of those restrictions as a matter of law and thus has no legal entitlement to any change in the Plan or Code.

⁶ Calle Miramar Staff Report 8.19.21, p. 18.

⁷ Calle Miramar Staff Report 8.19.21, p. 17.

⁸ Calle Miramar Staff Report 8.19.21, p. 17

On the other hand, the coastal protection / emergency management restrictions in Florida's land use planning law, Chapter 163, Part II Fla. Stat. (The Community Planning Act) are the most stringent provisions of that law. See sections 163.3177(6)(g), and 163.3178, Fla. Stat.

Section 163.3177(1) (f), Fla. Stat. requires that plans “*shall be based upon relevant and appropriate data and an analysis*” “To be based on data means”, according to the statute, “to *react to it in an appropriate way and to the extent necessary* indicated by the data” Id. Since at least 1975, the Comprehensive Plan has prohibited any increases in hotel room density on Siesta Key, for public safety, transportation, environmental and quality of life reasons well and consistently documented. Indeed, the Plan has called for *down-zoning* Siesta Key for these reasons. A change in this policy would require an extraordinary justification based on science, emergency management, transportation, and land use planning studies that shows the past and current basis for the density restrictions to have somehow changed so as to demonstrate that higher densities in Siesta Key are now somehow appropriate. **We think the facts and analysis identified above render such a justification unattainable.**

This issue has been contentious over the past two + years, but it has raised public consciousness about the physical and realistic limits to the size of hotel and the amount of persons who can be on Siesta Key overnight. We urge the Commission to send a clear message to the public and private investors that the future of Siesta Key hotels will be about quality, not quantity, and governed by a policy of ensuring the safe enjoyment and unique quality of life on this special Barrier Island for permanent residents and visitors alike.

We appreciate your consideration.

Sincerely



Richard Grosso

cc: client