
APPENDIX C
GLATTING, JACKSON, KERCHER, ANGLIN, INC. REVIEW



Memorandum

DATE: April 16, 2009

TO: Laura A. Boyce, AICP, Senior Planner
Sarasota County Planning Services

FROM: Frances Chandler-Marino, Principal
Glatting Jackson Kercher Anglin, Inc.

CC: Todd Dary DRI Coordinator, Senior Planner
Sarasota County Planning Services

RE: Comprehensive Plan Amendment CPA-2009-01
The Villages of Lakewood Ranch South

I have reviewed the above referenced Comprehensive Plan Amendment and conferred with Tim Jackson and Jay Exum and submit the following comments for your consideration.

Proposed Amendment #1: Policy VOS 5.1 Greenbelts

The applicant proposes two amendments to Policy VOS 5.1. The first amendment (referred to as Amendment 1.a.) proposes to remove the greenbelt requirement along University Parkway while the second amendment (referred to as Amendment 1.b.) proposes to remove the greenbelt adjacent to the North Village Remnant Parcel.

Applicant requested amendment:

Policy VO5.1 Greenbelts

The purpose of establishing a Greenbelt around each Village and each Hamlet is to help define these as separate and compact communities. As part of the Open Space requirement for development within the Village/Open Space RMA, the Master Development Plan for each Village and each Hamlet shall establish a Greenbelt that is a minimum of 500 feet wide around the perimeter of the Developed Area that preserves Native Habitats, supplements natural vegetation, and protects wildlife within the area.. Existing agricultural uses are permitted within this Greenbelt. New uses are restricted within this Greenbelt to Native Habitat and to low intensity agriculture and wetland mitigation that do not involve the conversion of Native Habitat. Land within the Greenway RMA may be included within the Greenbelt requirement. The Board of County Commissioners shall not require a Greenbelt between the Developed Area of a Village and:

- *I-75;*
- *Manatee County Boundary;*
- *land within the Urban Service Area Boundary;*

- the Economic Development RMA;
- or municipalities.

The Board of County Commissioners may authorize other exceptions to the requirement for a Greenbelt or to the minimum 500-foot width under the following conditions:

1. Where the development proposed adjacent to the Rural Heritage/Estate RMA has the same density and form as the existing adjacent development. Examples of the types of development conditions that may be considered for approval by the Board of County Commissioners are shown in Figure VOS-3: Examples of Minimum Buffer Requirements.
2. Where the existing adjacent homeowners within the Rural Heritage/Estate RMA have demonstrably anticipated more intense adjacent development through an instrument recorded in public land records.
3. Where existing uses within or adjacent to the Rural Heritage/Estate RMA achieve the intended purpose of the Greenbelt in perpetuity, such as existing Buffer s within the Rural Heritage/Estate RMA and existing utility corridors adjacent to the Rural Heritage/Estate RMA.
4. Where the adjacent property is currently undeveloped or underdeveloped and is located with a contiguous area of Village designation under separate ownership, and where such property may be appropriate for future Village development under the 2050 Regulations, but could not be individually developed due to minimum Village size requirements. Where this exception is requested, future connection points for the development shall be indicated on the master development plan and individual neighborhood plans.

Where appropriate, within the Open Space that is designated as Greenbelt in a Village or Hamlet Master Plan, the Board of County Commissioners may also allow the following active uses adjacent to the Developed Area of the Village or Hamlet: golf courses using best management practices, regional stormwater facilities and public parks. Where such uses are allowed, the width of the Green belt shall be expanded to include these active uses as well as a minimum 500-foot wide section of Greenbelt located outside these active uses.

Discussion:

Amendment 1.a.

The purpose of establishing a Greenbelt around each Village is described in Policy VOS 5.1 “to help define these as separate and compact communities”. The policy currently identifies specific circumstances where a greenbelt is not required as well as circumstances where the County Commission may grant an exemption to the greenbelt requirement. Within the adopted Policy VOS 5.1, there is no requirement for a greenbelt between the Developed Area of a Village and land within the Urban Service Boundary.

In short, the applicant requests that this Policy VOS 5.1 be amended to extend the recognition that a greenbelt should not be required between the Developed Area of the

Village and urban lands to include urban lands outside of Sarasota County. We concur with this request in concept, however, we do not recommend the amendment suggested by the applicant above because it exempts the areas outside of Sarasota County without regard to the built or planned environment. We would suggest that an alternate amendment could achieve this same outcome as follows:

Alternate Amendment:

Policy VOS5.1 Greenbelts (partial excerpt)

The Board of County Commissioners shall not require a Greenbelt between the Developed Area of a Village and:

- *I-75;*
- *land within the Sarasota County Urban Service Area Boundary or within the urban area of Manatee County;*
- *the Economic Development RMA;*
- *or municipalities.*

Amendment 1.b.

The “North Village” on the future land use map depicts approximately 6000 acres of land which are held by multiple owners. The Development of Regional Impact (DRI), which is currently being processed for the North Village, involves approximately 5400 gross acres. Unlike the Central and South Villages designated on the future land use map, which are large enough to sustain more than one Village Master Development are under control of very few owners. The balance of the acreage (exclusive of the DRI) in the north Village land use designation is uniquely made up of many small parcels under various ownerships.

The Zoning Regulations currently address this issue in Section 11.2.10.a.1.ii. as follows:

ii. Greenbelt Requirements.

Each applicant for development within the HPD and VPD shall identify on the Master Land Use Plan a Greenbelt that is a minimum of 500 feet wide around the perimeter of the Developed Area as part of the Open Space requirement for the development. The Greenbelt is required to preserve Native Habitats, supplements natural vegetation, and protects wildlife within the area. Where adjacent property has been designated on Figure RMA-3, Village/Open Space RMA Land Use Map as Village or Hamlet Land Use, the ordinance rezoning the property and the Master Land Use Plan shall designate the Greenbelt at the perimeter of the Developed Area.

The ordinance and Master Land Use Plan may include a notation that the portion of the Greenbelt that is located adjacent to other land designated for Village or Hamlet Land Use may be relocated to the perimeter of the adjacent property if that property is later added to the approved Village or Hamlet. If ordinance and Master Land Use Plan provide that the Greenbelt is eligible for relocation, then the portion of the Greenbelt so designated shall not be used to meet the minimum Open Space requirements for the Village or Hamlet and the density assignment for such property shall assume that the portion of the Greenbelt so designated will be included as part of the Developed Area of the Village or Hamlet. The Greenbelt must be set aside in connection with the filing

of any subdivision plat filed with respect to lands located nearest to the perimeter of the Developed Area unless the Greenbelt has been relocated, through the inclusion of adjacent lands into the Village or Hamlet, prior to the filing of such plat.

This regulation, which is consistent with the limitations established by Policy VOS 1.5 represents a “permissive” regulation that allows the developer of the initial Village to delay the designation of the Greenbelt where the adjacent property is also designated as Village until the time of platting for the tract where the adjacency occurs.

The land development regulation provisions preserve the intent of requiring a greenbelt while providing an opportunity to “move it” to a more appropriate location if the adjacent area is to be brought into the Village development. The amendment proposed by the applicant creates an exception to the requirement and does not transfer the requirement to the adjacent property, thus creating the potential for the Developed Area of the Village to be located adjacent to rural lands without the benefit of the protection of the Greenbelt.

We believe that the provisions of the Land Development Regulations as described above are sufficient to both allow additional lands to be brought into the Village without foreclosing their future while continuing to provide the protection of a Greenbelt as intended.

In addition, the applicant requested amendment (see below) provides for an exception for adjacent undeveloped/underdeveloped property designated as Village without regard to the future use on the site.

Proposed Amendment to add a potential exception for the Greenbelt. Where the adjacent property is currently undeveloped or underdeveloped and is located with a contiguous area of Village designation under separate ownership, and where such property may be appropriate for future Village development under the 2050 Regulations, but could not be individually developed due to minimum Village size requirements. Where this exception is requested, future connection points for the development shall be indicated on the master development plan and individual neighborhood plans.

Since the Village land use designation is an overlay, there are two development scenarios that could occur. Either the property could be developed as an extension of the adjacent Village or it could develop under its current land use designation. The Village land use designation was carefully crafted as an overlay so that the existing development opportunities of Sarasota County property owners would not be affected and the Greenbelt buffer requirement was established to successfully address compatibility issues between the more intense developments within a Village and lesser dense/intense adjacent properties. The text amendment as proposed would eliminate that protection.

Policy RMA1.3 Relationship to Existing Goals, Objectives and Policies (excerpt)

The Sarasota 2050 Resource Management Area Goal, Objectives and Policies shall not affect the existing rights of property owners to develop their property as permitted under the Comprehensive Plan, the Zoning Ordinance, the Land Development Regulations or previously approved development orders; provided, however, that Policy TDR 2.2 shall apply to land located within the Rural Heritage/Estate, Village/Open Space,

Greenway RMA will be determined on a site-by-site basis as field verification is conducted as part of the Master Development Plan process according to the above criteria.

Policy VOS1.2 Village/Open Space RMA: Development Framework

The preferred development pattern within the Village/Open Space RMA designated on Figure RMA-1 shall be in the form of Villages and Hamlets as illustrated in Figure VOS-1: Example of Village Concept and Figure VOS-2: Example of Hamlet Concept, and in the locations as depicted on Figure RMA-3, Village/Open Space RMA Land Use Map. The boundaries of the Greenway RMA have been delineated using County-wide mapping techniques which shall be adjusted to reflect more detailed on-site information obtained during the master planning process including the actual field verification of each Greenway component as defined in Policy GS1.1. The purpose of such adjustment is to provide interpretive relief by allowing minor adjustments to the Greenway boundary. When such adjustments occur adjacent to a Village or Hamlet land use and are based upon the demonstration that certain property does not meet the requirements of the Greenway, then the future land use designation shall be construed to be the same designation as the adjacent use. When such adjustments occur based on the demonstration that certain properties in the Village/Open Space RMA meet the requirements of the Greenway, then the resource overlay designation shall be construed to be Greenway RMA. The approval of a Master Development Plan, in accordance with Policies VOS2.3 and VOS2.4, shall be required prior to the commencement of any specific Village or Hamlet development. Development densities greater than the underlying Rural or Semi-Rural densities may only be achieved through the Transfer of Development Rights in accordance with Objective TDR1, TDR2, and the associated policies.

As an incentive to provide affordable housing, the maximum density of the Village may be increased to 6 du/Gross Developable Acre, provided that 100% of the additional dwelling units allowed by the density increase are Affordable Housing Units.

As stated in both policies, the graphic representation of the Greenway RMA, was based upon available regional data which could be modified on a site-by-site basis as field verification is conducted as part of the Master Development Plan process according to whether or not a specific piece of property met any of the nine (9) criteria identified in the definition of Policy GS 1.1. No Comprehensive Plan Amendment is required to exercise this modification.

The applicant submits that “the area in question includes a series of degraded wetlands connected by an improved ditch and is proximal to an active shell and sand mine to the west and a future mine to the east that is currently being cleared in preparation for mining.” The applicant further submits that “it appears that the reviewers looked at the area in question on an aerial photograph, and concluded that the area in question is an integral part of the Gum Slough system.” In fact, to understand exactly why the Greenway RMA was determined to exist in an area would require a review of the GIS data layers used to create the Greenway RMA as stated in the support document to the Comprehensive Plan to determine what conservation component was found to be present (e.g., floodplain, contiguous wetlands, High Ecological Value lands, or other factors). It appears that the “thumb” extension was added to Gum Slough because of its ecological value, or because it included the AE portion of the 100-year floodplain - not because it was identified as a “named tributary”. The level of degradation of an area is immaterial to its designation as Greenway RMA, only the extent to which it conforms to one of the nine (9) established criteria of Policy GS1.1.

In addition, the assertion that a plan amendment is required to make the requested modification to the Greenway RMA implies that there is a policy issue change that is being requested since that would be the only reason that a plan amendment would be necessary. To the extent that the applicant exercises the modification provision that is allowed in Policy VOS 1.2, no policy change is need to the Sarasota 2050 Plan and thus any resulting development would continue to be consistent with the original intent and construction of that Plan. However, if there is a substantive request to amend the policy of the Plan to permit lands to be developed as a Village that would otherwise be prohibited under the Plan, the practical outcome of such an action overall would be to have more Village land available for development than originally planned for, with fewer transfer development rights available to create the desired Village density.

Note: We are currently conducting research to verify the initial reason for the Greenway RMA designation on this site.

Proposed Amendment #3:

Map Change, Figure RMA-1 and RMA-3

The applicant proposes to amend Figures RMA-1, Resource Management Areas and Figure RMA-3, Village/Open Space RMA Land Use Map relating to the 550 foot buffer requirements in the southeast section of the developable area, adjacent to Gum Slough due to further site constraints.

Discussion:

Although mining activities adjacent to the Greenway may have changed the landscape around Gum Slough, they should not be used as justification for changing the Buffer. The 550 foot buffer was established based on a thorough review of scientific literature, and successful conservation strategies in other instances in Florida. The buffer distance was tested in an administrative appeal of the Sarasota 2050 Comprehensive Plan Amendment, and it was upheld. If the Greenway Buffer is deemed appropriate based on site specific conditions, it should not be reduced in size.

The conservation strategy associated with the Primary Ecological Linkages layer of the Greenway stated that conservation of lands (such as the “thumb” area of Gum Slough) will benefit water quality protection, mitigate effects of floods and storm surges, and provide wildlife habitat along major creek drainages. Any site specific field reviews should assess whether this is still relevant and possible. Buffers to the Greenway were established for many areas that were not in pristine conditions because there was an assumption that land uses such as improved pasture could, over time, be converted to their historic conditions, and that even if they are maintained as pasture, they provide habitat for some species of wildlife, sustain a seed bank for some native plants, provide the potential for sheet flow/stormwater attenuation, etc. Although the proposed plantings as suggested by the applicant are a good idea, there is no urgency to the restoration so that plantings should be given such higher credence that it would allow a reduction in the width of the buffer.

Policy GS 1.1 does permit an applicant to submit alternative greenway or Buffer configurations to the 550-foot Buffer that is required from the composite of named creeks and flow-way and wetlands connected to those creeks and flow-ways, that would provide equivalent or greater net ecological benefit. Such an alternative does not require a Comprehensive Plan Amendment because the definition of the Greenway RMA provides for this alteration. In such a case, the alternative would be submitted as a part of the Master Development Process associated with the rezoning of the property to VPD as provided in the Zoning Ordinance.

Proposed Process:

If an applicant seeks to modify either the location of the Greenway RMA or the Buffer as a part of the Master Development Process associated with the rezoning of the property to VPD as provided in the Comprehensive Plan and the Zoning Ordinance, we would recommend the following process for such review:

1. *Review the Ecological Resources System maps, and the Greenway RMA Support Document dated September 14, 2001, to understand the role that the lands in question played in the overall system, i.e. was it part of the Myakka River Reserve, a High Ecological Value land, a named tributary, etc.*
2. *Assess aerial photography from 2001 to determine general site conditions that related to the establishment of the Greenway or buffer.*
3. *Conduct a field review to assess whether, in a regional context, the designated lands currently contribute, or could contribute, to conservation of natural resources as described in the Greenway RMA Support Document. The functions that these natural lands provide might be indirect, such as providing a linkage of relatively poor habitat to connect to areas of High Ecological Value, flood attenuation, water quality treatment, etc.*
4. *Determine what benefits to the Greenway would be lost if the proposed modification were allowed.*
 - a. *Would the overall area of conservation lands be reduced?*
 - b. *Would the change result in reductions in potential habitat value?*
 - c. *Would the change increase the likelihood of disturbance (nuisance species, noise, light, fragmentation) to the core reserve?*
 - d. *Would wetland hydrology or flood levels be negatively influenced?*
 - e. *Would any linkage be separated from the overall system as a result of the proposed change, or would the proposed modification substantially reduce the width of a proposed linkage?*
 - f. *Would the water quality benefits of the conservation lands be compromised?*

