

**COMMENTS ON THE PROPOSED PASCO COUNTY
HARVEY/MADISON LARGE SCALE COMPREHENSIVE PLAN
AMENDMENT, FILE #CPAL09-1(04B)**

Failure to Protect Significant Natural, Historical, Archaeological and Cultural Resources

▪ *Natural Resources*

The proposed amendment is located on the western bank of the Anclote River. The river is a blackwater stream (Figure 1) which receives most of its flow from wetlands near and within the J.B. Starkey Wilderness Park located several miles to the northeast. In the amendment area, the river ranges from approximately 10 to 30 feet wide and six to eight feet deep. The riverbanks on the amendment site are very steep and generally range from 10 to 15 feet high according to 2004 SWFWMD LIDAR data. One of the land owners on the east side of the river has estimated the river to be over 25 feet deep in one area on his property. This appears to be some type of sinkhole or other karst formation as there is limestone present along the banks here. Along with the limestone along the river, there are at least three other karst features onsite: a spring and two sinkholes (Figure 2).

The spring is located on the southeast side of the amendment area and is connected by a spring run to the river. The spring starts at the bottom of a steep slope and then opens up into a spring pool which is approximately 180 feet long and 20 to 30 feet wide. The spring pool is estimated to be up to 15 feet deep in some areas. Limestone can be seen at the bottom of the spring pool. The water is clear with a bluish tinge. Water can be seen flowing out of the sides of the spring pool in many areas. Numerous animals including large populations of blue crab, mullet, largemouth bass and peninsula cooter are present in the spring pool. Manatees are often seen in the river and during periods of high water, appear to be able to go into the spring pool (although this has not yet been observed).

The other karst features known to be onsite are two sinkholes. One of the sinkholes is located in the center of the property and the other is located on the east side of the property near the river. Both sinkholes are clearly visible on the previously referenced LIDAR data (Figures 3 and 3a). According to these data, the sinkhole in the center of the property has an elevation of 19 feet at its center. The surrounding areas are 20 to 40 feet higher. The data also show that the elevation of the center of the sinkhole located near the river is only four feet. That sinkhole is also a wetland with water and wetland vegetation present at its bottom.

The amendment proposes to allow residential, industrial and commercial development on top of or directly abutting the two sinkholes onsite and within close proximity to the spring. Furthermore, no study has been performed to determine if these sinkholes are connected to the Floridan aquifer. Considering that a spring is located on the property (which indicates that the top of the aquifer is very near the surface) and the large size of the sinkholes, it's probably a safe bet to assume that there is some type of connection. Allowing intense development within or near a sinkhole could have catastrophic consequences not only for the development which could be subject to further subsidence, but also to the aquifer and the spring.

Within the amendment area, the river is virtually undisturbed. Along the river, the habitat is of high ecological quality and includes the following communities as defined by the Florida Natural Areas Inventory (FNAI): scrub, xeric hammock, mesic flatwoods, upland hardwood forest, floodplain swamp, spring-run, sinkhole and blackwater stream. The remainder of the amendment area consists mainly of planted pines. Along with defining communities, FNAI also ranks them based on rarity and threat to each. The communities onsite along the river are ranked as follows:

Scrub	G2	S2
Xeric hammock	G3	S3
Mesic flatwoods	G4	S4
Upland hardwood forest	G5	S3
Floodplain swamp	G4	S4
Spring-run	G2	S2
Sinkhole	G2	S2
Blackwater stream	G4	S2

Definition of Global (G) element ranks:

- G1 = Critically imperiled globally because of extreme rarity (5 or fewer occurrences or very little remaining area, e.g., <2,000 acres) or because of some factor(s) making it especially vulnerable to extinction;
- G2 = Imperiled globally because of rarity (6-20 occurrences or very little remaining area, e.g., <10,000 acres) or because of some factor(s) making it very vulnerable to extinction throughout its range;
- G3 = Either very rare and local throughout its range or found locally (even abundantly at some of its locations) in a restricted range or because of other factors making it vulnerable to extinction throughout its range, 21 to 100 occurrences;
- G4 = Apparently secure globally, though it may be quite rare in parts of its range, especially at the periphery;
- G5 = Demonstrably secure globally, though it may be quite rare in parts of its range, especially at the periphery;
- G? = uncertain Global rank.

Definition of State (S) element ranks:

- S1 = Critically imperiled in state because of extreme rarity (5 or fewer occurrences or very little remaining area) or because of some factor(s) making it especially vulnerable to extinction;
- S2 = Imperiled in state because of rarity (6-20 occurrences or little remaining area) or because of some factor(s) making it very vulnerable to extinction throughout its range;
- S3 = Rare or uncommon in state (on the order of 21 to 100 occurrences);
- S4 = Apparently secure in state, although it may be rare in some parts of its state range;
- S5 = Demonstrably secure in state and essentially ineradicable under present conditions;
- S? = uncertain State rank.

The presence of high quality habitat along a relatively untouched stretch of the Anclote River is very significant and should be protected. Allowing development in or near these sensitive resources will certainly cause negative environmental impacts and should not be allowed. A letter and resolution from the City of Tarpon Springs also express similar concerns (Appendix 1).

▪ *Historical, Archaeological and Cultural Resources*

In addition to the significant natural resources onsite, there are also potentially significant archaeological resources onsite. A Florida Master Site File (PA00275) exists within the amendment area with documented resources present. In addition, two other documented archaeological sites and one resource group are located either on or within close proximity to the site. The file for PA00275, located on the eastern portion of the amendment, states that the site has been found to contain "...intact, stratified cultural deposits dating from the Middle Archaic through Weeden Island periods" which "[m]ay provide archaeological data of significance regarding coastal vs. Inland adaptation within the Anclote River drainage basin."

The proposed amendment designates most of this archaeological site as either a residential or industrial classification. This does not adequately protect these potentially significant historical, archaeological and cultural resources.

▪ *Objection*

The amendment's failure to protect and likelihood to adversely impact the significant natural, historical, archaeological and cultural resources onsite is inconsistent with provisions of the Pasco County Comprehensive Plan, Florida Statutes, and Florida Administrative Code including, but not limited to:

Pasco County Comprehensive Plan:

- Objective CON 1.1: Natural Resources Protection
- Policy CON 1.3.3: Category I Wetlands: Definition
- Policy CON 1.3.12: Incompatible Uses
- Objective CON 1.6: Groundwater and Surface Water Protection
- Policy CON 1.6.2: Protection of Floodplains
- Policy CON 1.6.13: Prohibit Development Activities Causing Erosion, Basic Management Practices
- Policy CON 1.6.17: Establishment of Aquifer Recharge Provisions
- Objective Flu 1.2: Natural, Historic, Archaeological, and Cultural Resources
- Policy FLU 1.2.1: Comprehensive Strategy for Conservation
- Policy FLU 1.2.5: Floodplain Protection
- Policy FLU 1.2.6: Review of Rezoning Requests Within Areas of Frequent Flooding
- Policy FLU 1.2.9: Development on Unsuitable Soils
- Policy FLU 1.2.14: Protection of Historical and Archaeological Resources

- Objective FLU 1.8: Growth Management Policies for Innovative Planning Strategies to Reduce Urban Sprawl
- Future Land Use Element Appendix, Section FLU A-1 Comprehensive Plan Amendment Standards Of Review

Florida Statutes:

- Section 163.3177, paragraphs (6)(a) and (6)(d)
- Section 187.201, paragraphs (7), (9), (15), (18) and (25)

Florida Administrative Code:

- Rule 9J-5.005
- Rule 9J-5.006
- Rule 9J-5.011
- Rule 9J-5.013

Failure to Demonstrate Need

The amendment purports that the commercial and industrial uses (residential needs were not analyzed) are needed based on the *Update to the Pasco County Technical Support Document 2006* and the *ULI Advisory Services Panel Report* dated April 2008. Both of these documents were created prior to the economic collapse of late 2008 and the major recession we are currently experiencing. Any estimates or data contained within these reports which this amendment is based on are clearly no longer valid.

Furthermore, the planning horizon for the ULI Report is inconsistent with the Pasco County Comprehensive Plan. The Pasco County Comprehensive Plan has a planning horizon of 2025 while the ULI report has a planning horizon of 2028. Also, according to the amendment, it appears that the *Update to the Pasco County Technical Support Document 2006* has a planning horizon of 2025, but references a starting point of 2003. Estimates contained in that document are now almost seven years old. Relying on needs data that is inaccurate or has inconsistent planning horizons is contrary to Florida law. See Susan Woods, et al. v. Marion County, et al., Final Order AC-09-006 (Admin. Comm. Sept. 17, 2009), DOAH Case No. 08-1576GM

Regardless of the above, a review of the *Pasco County 2009-2012 Strategic Plan* (Appendix 2), approved July 28, 2009, invalidates the needs analysis provided in the amendment. Part of this document compares existing allocated/entitled development with the need for such development as estimated by the ULI report. The following page is an excerpt from pages 11-12 of the Strategic Plan showing that there is in fact an *enormous surplus* of potential residential, commercial and industrial uses in the county, sufficient to supply estimated needs.

MASTER PLANNED UNIT DEVELOPMENTS (MPUD), DEVELOPMENTS OF REGIONAL IMPACT (DRI) AND URBAN LAND INSTITUTE (ULI) ABSORPTION MODEL

Through the MPUD zoning and DRI process, Pasco County has entitled many developments for both residential and nonresidential uses. Currently, Pasco has entitled approximately 169,075 residential units. In addition, 6,875,150 square feet of retail/commercial entitlements has been approved. Office uses have been entitled for approximately 6,044,520 square feet. Lastly, industrial uses have been entitled for 6,289,577 square feet. Industrial entitlements include uses such as commerce park, light industrial, and heavy industrial.

Per the Urban Land Institute (ULI) Final Report (2008), which presented a 20-year demand model, Pasco County needs approximately 130,000 residential units to accommodate a 5,600 unit per year average unit count to take the County's population from 450,000 to 707,890 in 2028.

Pasco County Comprehensive Plan Future Land Use (FLU) categories can generate 955,000 units without consideration of any residential in agricultural districts or other mixed use districts that allow residential. In addition, approved DRIs and MPUDs have specific approval for 169,075 units.

The ULI model indicated a demand of approximately 9 million square feet of retail space based on the group's growth assumptions through 2028. In addition, the ULI model indicated a demand of approximately 9 million square feet of office space. This totals approximately 18 million square feet for retail and office. The Pasco County Comprehensive Plan FLU Category for Commercial has a maximum allowable generation of 29 million square feet of commercial and office uses. In approved DRIs and MPUDs, approximately 6.8 million square feet of retail/commercial uses and 6 million square feet of office uses have been entitled. With 12 million being specifically entitled, the additional 6 million can be accommodated.

The ULI model indicated a demand of 14.4 million square feet of industrial space. The Pasco County Comprehensive Plan FLU Categories for Industrial have an allowable generation of 68 million square feet, using half of the allowable Floor Area Ratio (FAR) of .25. Industrial entitlements include uses such as commerce park, light industrial, and heavy industrial. Industrial uses within DRIs and MPUDs have been entitled 6,289,577 square feet.

A number of the MPUD and DRI projects are Employment Centers. There have been multiple projects that have been designated as EC that have not yet been programmed for development. These sites have the ability to build out at 3 FAR, and have 2040% of the development designated for residential.

(Pasco County 2009-2012 Strategic Plan, pp. 11-12)

A summary of the data presented in the Strategic Plan is as follows:

Use	MPUD Zoning & DRI Entitlements *	Future Land Use Map Allocations	Total Entitlements & Allocations	ULI Report Estimated 20-Year Need	Difference Between Total and Need
Residential**	169,075 units	955,000 units	1,124,075 units	130,000 units	994,075 units
Commercial***	12,919,670 ft ²	29,000,000 ft ²	41,919,670 ft ²	18,000,000 ft ²	23,919,670 ft ²
Industrial****	6,289,577 ft ²	68,000,000 ft ²	74,289,577 ft ²	14,400,000 ft ²	59,889,557 ft ²

- * MPUD zoning and DRI entitlements do not include projects designated Employment Centers. These projects have very high densities which means that the figures in this column are understated.
- ** The figure for Future Land Use Map allocations does not take into account Residential uses permitted in agricultural or mixed use districts which means that the actual figure is much higher.
- *** Includes retail and office uses
- **** The figure for Future Land Use Map Allocations is given as one-half the allowable FAR. This means the actual figure is 136,000,000 sq. ft.

According to these data which indicate maximum development potential based on existing entitlements (MPUD and DRI projects) and allocations (Future Land Use Map designations), Pasco County has capacity for enough residential development for 2,248,150 people (two people per unit), enough commercial development for the next 47 years and enough industrial development for the next 103 years (198 years at 100% of the FAR) assuming the demand shown in the ULI report were to remain constant.

When looking only at vacant developable land, there is still a surplus of development potential in the county. The *Update to the Pasco County Technical Support Document 2006* states that there will be a demand for 1,271 acres of Industrial land from 2003-2025, but there are currently 3,315 acres of vacant developable Industrial land not even taking into account MPUDs and DRIs. Its estimated need for Commercial uses is 2,716 acres, but there are currently 6,048 acres of vacant developable Commercial land¹ not even taking into account MPUDs, DRIs or commercially zoned properties with development rights predating the Comprehensive Plan. Finally, its estimated need for Residential uses is 135,961 units, but there is currently an availability of 316,588 units. In addition, because the County reduced densities to reflect historic buildout rates rather than actual densities provided by the Comprehensive Plan, the real existing availability figure is even higher than what is shown.

▪ *Objection*

There is no demonstrated need to support this amendment². This is inconsistent with provisions of the Pasco County Comprehensive Plan, Florida Statutes, and Florida Administrative Code including, but not limited to:

Pasco County Comprehensive Plan:

- Future Land Use Element Appendix, Section FLU A-1 Comprehensive Plan Amendment Standards Of Review

¹ Includes 3,989 acres of vacant developable Residential/Office/Retail and 2,059 acres of vacant developable Mixed Use future land use categories. The technical support document (p. 35) states that these categories are generally recognized for commercial uses.

² Future land use map amendments must be based on a professionally acceptable demonstration of need. See Susan Woods, et al. v. Marion County, et al., Final Order AC-09-006 (Admin. Comm. Sept. 17, 2009), DOAH Case No. 08-1576GM

Florida Statutes:

- Section 163.3177 paragraph (6)(a)
- Section 187.201 paragraph (25)

Florida Administrative Code:

- Rule 9J-5.005
- Rule 9J-5.006

Failure to Protect Floodplain

The eastern portion of the amendment area is within the floodplain for the Anclote River. Approximately 52 acres of the amendment are within the FEMA designated 100 year floodplain and 33 acres are within the designated floodway (Figure 4). The amendment proposes to designate areas within the 100 year floodplain and outside of the floodway as RES-6 (residential, six units per acre). The amendment also proposes to allow sharing the densities among the three residential categories, which would allow the density in this area to be even higher than six units per acre.

Lands on the east side of the river directly adjoining the amendment are subject to frequent flooding. According to residents in the area, during the hurricanes of 2004 and 2005, there were several feet of moving water in their yards. Pasco County has recognized this issue by designating this area on Map #2-4a, 2003 Floodprone Areas, in its Comprehensive Plan (Figure 5).

Permitting development in the floodplain of the Anclote River could not only cause increased flooding, but also other adverse impacts including increased stormwater runoff, decreased groundwater recharge and loss of natural habitat. A letter and resolution from the City of Tarpon Springs also express similar concerns (Appendix 1).

▪ *Objection*

Allowing development within the floodplain of a river with documented flooding is inconsistent with provisions of the Pasco County Comprehensive Plan, Florida Statutes, and Florida Administrative Code including, but not limited to:

Pasco County Comprehensive Plan:

- Objective CON 1.1: Natural Resources Protection
- Objective CON 1.6: Groundwater and Surface Water Protection
- Policy CON 1.6.2: Protection of Floodplains
- Policy FLU 1.2.1: Comprehensive Strategy for Conservation
- Policy FLU 1.2.5: Floodplain Protection
- Policy FLU 1.2.6: Review of Rezoning Requests within Areas of Frequent Flooding
- Objective FLU 1.8: Growth Management Policies for Innovative Planning Strategies to Reduce Urban Sprawl
- Future Land Use Element Appendix, Section FLU A-1 Comprehensive Plan Amendment Standards Of Review

Florida Statutes:

- Section 163.3177, paragraphs (6)(a) and (6)(d)
- Section 187.201, paragraphs (6), (7), (9), (15) and (25)

Florida Administrative Code:

- Rule 9J-5.005
- Rule 9J-5.006
- Rule 9J-5.011
- Rule 9J-5.013

Incompatibility with Surrounding Uses

To the east of the amendment area, the land use designation is RES-6 (residential, six units per acre), but the actual density is much lower. This area consists of a mix of mobile homes and single family dwellings, many on multiple lots. The area to the south and west of the amendment is designated either RES-3 (residential, three units per acre) or RES-6 (residential, six units per acre) and is generally appears to be developed at those densities. To the north of the amendment is State Road 54 and a mix of commercial uses.

The amendment proposes designating the property as follows:

Amendment Summary Table			
Future Land Use	Acres	Development Potential -- Proposed Amendment	Development Potential -- Proposed Subarea Policies
EXISTING			
RES-6 ¹	200.24	1,043 dus	n/a
PROPOSED			
RES-6	11.16	67 dus	(shared)
RES-12	77.35	1,081 dus	1,043 dus ²
RES-24	6.90	257 dus	(shared)
COM	39.75	1,038,906 sq. ft.	395,000 sq. ft.
IL	24.05	531,432 sq. ft.	244,000 sq. ft.
CON	46.00	n/a	n/a
TOTAL	200.24	1,338 dus 1,038,906 sq. ft. COM 531,432 sq. ft. IL	1,043 dus 395,000 sq. ft. COM 244,000 sq. ft. IL
NET CHANGE³	RES.	295 dus	No net change
	NONRES.	1,570,338 sq. ft.	639,000 sq. ft.

1. Includes wetlands density incentive (25%).

2. Dwelling units shared between RES-6, RES-12 and RES-24 land uses.

3. Net change in potential development density/intensity.

Although the County says it will limit the development potential of the site through the use of a subarea policy, the review of future land use map amendments for consistency is to be evaluated at the maximum density or intensity allowed under the designation. *See Department of Community Affairs v. Lee County*, Final Order AC-06-006 (Admin. Comm. Nov. 15, 2006), DOAH Case No. 06-0049GM

With the surrounding uses being at or below six residential units per acre, the amendment's designations are a significant increase and are not compatible (Figure 6).

▪ *Objection*

The amendment is not compatible with surrounding uses. This is inconsistent with provisions of the Pasco County Comprehensive Plan, Florida Statutes, and Florida Administrative Code including, but not limited to:

Pasco County Comprehensive Plan:

- Objective FLU 1.4: Protection of Residential Neighborhoods
- Policy FLU 1.6.2: Location of Commercial Development
- Objective FLU 1.8: Growth Management Policies for Innovative Planning Strategies to Reduce Urban Sprawl
- Future Land Use Element Appendix, Section FLU A-1 Comprehensive Plan Amendment Standards Of Review

Florida Statutes:

- Section 163.3177(6)(a)
- Section 187.201, paragraphs (15) and (25)

Florida Administrative Code:

- Rule 9J-5.005
- Rule 9J-5.006

Failure to Meet Concurrency Requirements

Correspondence from the District School Board of Pasco County, the Pasco County Sheriff and the Pasco County Fire Marshal (included in the amendment package) state that there are not sufficient facilities and services currently in place to serve the amendment.

▪ *Objection*

Failure to meet concurrency requirements is inconsistent with provisions of the Pasco County Comprehensive Plan, Florida Statutes, and Florida Administrative Code including, but not limited to:

Pasco County Comprehensive Plan:

- Goal ADM 1, Administration Element

- Policy FLU 1.1.7: Concurrency Management for Public Facilities

Florida Statutes:

- Section 163.3177 paragraphs (6) and (12)
- Section 163.3180
- Section 187.201 paragraphs (6), (7), (17) and (25)

Florida Administrative Code:

- Rule 9J-5.005
- Rule 9J-5.006
- Rule 9J-5.025