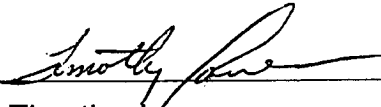


MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: September 22, 2004

To: Board of County Commissioners

FROM:



Timothy Jones
Chief Assistant County Attorney

RE: Hanson Report/Greater Pine Island Community Plan Update

The County administrative staff raised some questions with regard to Mr. Hanson's report. These questions were submitted to Mr. Hanson by Wayne Daltry and a copy of Mr. Hanson's response to the questions is attached for your information.

In addition, I have asked Mr. Hanson to attend the County Commission meeting on September 28, 2004, so that he can respond to any questions or need for clarification of his report.

TJ/amp
Attachment

Distribution: Commissioner Robert Janes, District 1
Commissioner Douglas St. Cerny, District 2
Commissioner Ray Judah, District 3
Commissioner Andrew Coy, District 4
Commissioner John Albion, District 5

cc: w/attachment
Robert W. Gray, Deputy County Attorney
Donald Stilwell, County Manager
William Hammond, Deputy County Manager
Holly Schwartz, Assistant County Manager
Peter Winton, Assistant to the County Manager
Wayne Daltry, Director, Smart Growth
Mary Gibbs, Director, Department of Community Development
Paul O'Connor, Director, Planning Division

HANSON REAL ESTATE ADVISORS, INC.

Real Estate Valuation and Counseling

21 September 2004

Wayne Daltry
Director
Smart Growth Department
County Administration Office
County of Lee
Fort Myers, FL 33902-0398

2004 SEP 22 AM 8:34
RECEIVED BY
LEE CO. ATTORNEY

Re: Response to Questions Regarding HREA
Appraisal Consulting Report No. 03-10-01
Project: Greater Pine Island Community Plan Update.
County: Lee County, Florida.

Dear Mr. Daltry:

I am in receipt of your 02 September 2004 email correspondence (two pages) as well as your 03 September 2004 facsimile correspondence (two pages including cover) wherein you have presented several questions and identified several issues relating to the project identified above.

To avoid confusion, I have identified your question in italics without bold print. My response is presented in bold print without italics. The following summary, overview and responses are presented:

1. 02 September 2004 Email: The following issues and/or questions were contained in your 02 September 2004 email correspondence:
 - *“However, the critical point is the assumption (Special Assumption on Page 14) can be paraphrased to say that farmland or farmers keep “water rights” if they stop farming. This is not so. If they want to become developers, SFWMD and County practice is that a number of water storage and water quality issues must be resolved. Given the requirements for roadways, buffering and so forth that are part of the County land regulations, a complete overhaul of the agricultural oriented water system is common and required.*

My analysis and conclusions **do not** presume that farmers retain their water rights. The critical points to my findings are that:

- Active agricultural properties (e.g., ornamental tropical palm farms, tropical fruit orchards, etc.) do not typically have any native upland habitat to set aside in order to sustain currently permitted density levels under the “Rural” future land use designation.
- Within market contextual ranges, density creates value.

- The costs to create native upland habitat at these properties is unique and peculiar due to their surface water management systems (e.g., reservoirs, canals, ditches, swales, control structures, irrigation systems, and throw-off pumps, etc. and is estimated to exceed the current market value of the “Rural” (1du/acre) designated lands).
- Consequently, the GPICPU does not provide a financially feasible alternative (e.g., clustering, native upland habitat preservation or restoration) to active agricultural properties to sustain allowable residential density and property values.
- *“County staff is prepared to provide many examples of this being the case. County staff is also ready to help look for “1 unit per acre” comparables in any variety of development options to assist you in the re-examination of this critical issue.”*
 - County staff does not need to provide any examples. I am aware that alternative uses, other than agriculture (e.g., residential) would be subject to a different set of development standards, as well as jurisdictional agencies.
 - Thank you for offering County staff to help look for “1 unit per acre” comparables to assist me in the re-examination of this issue. I know you mean well, but I think it would be in Lee County’s best interest if Hanson Real Estate Advisors, Inc. did its own research. My professional certification requirements would require me to identify Lee County staff as having provided significant real property appraisal or appraisal consulting assistance to me. As a litigant in a suit relating to issues associated with the GPICPU, I don’t recommend you do this.
- *“Sadly, Sanibel—which may serve as a place to check—is still digging out from Charley, but we would be glad to assist in looking at that Island Community for comparables also. Sanibel has a fairly strong set of requirements for landscaping, and may provide further examples more comparable to the Pine Island plan as a “cost of doing business.”*
 - Again, I am sure you mean well, but in my opinion, County staff should not be involved in the research, development and selection of data for application in this market study, for reasons discussed above.
 - In my opinion, Sanibel is not a market area that should be used to test the results of my review of the GPICPU. First and foremost, Sanibel is separated from mainland Lee County by a toll bridge, market participants are more affluent and real estate prices are much higher than those observed on Pine Island. Sanibel is not Pine Island.
 - Finally, there is sufficient data on Pine Island to statistically support the analyses. This is important because this market area is already affected by

the pendency of the GPICPU, the 810/910 Rule, the constrained road link, and the Matlacha historic district. To remove these price factors from the data base when it is unnecessary is likely to result in a misleading conclusion.

- *“The cost of doing business” then is probably our summary statement for this salient point. To what degree did the cost of preparing (for example) a “normal” one unit/acre development meeting Lee County Code change should the Pine Island Plan go into effect. Then, does experience show that the cost was met by improved sales price in the market place because of the preserve setting?*
- **Markets are price determining mechanisms. And, value is often defined as the present value of all expected future benefits. The land transactions which were considered were all located within the geographic boundaries of the GPICPU and are subject to the goals, policies and objectives of this community plan. It is my belief, the market has already priced in the “cost of doing business,” as well as the “use risk” associated with the GPICPU.**
- **On page 39 of my report, I summarized my interview with a Pine Island residential subdivision developer who indicated that land development costs ranged from \$18,000 to \$20,000 per lot, and that the reduced density would affect the feasibility of residential development.**

Another real estate professional, indicated that residential subdivisions are more efficient if the lots are 90 feet to 100 feet wide, as opposed to 1.0 acre lots. It was noted that this is already being done on Pine Island at Demery Reserve.

- **In real estate markets, investors seek the greatest return of and on their activated capital. If clustering produced the highest return on capital (assuming equal risk among product groups), then this type of development would be more prevalent on Pine Island and in other markets as well. The GPICPU does not “create markets,” it simply defines objective criteria in which those who service markets may develop their real estate assets.**
 - *“However, the critical assumption that farmland conversion to urban has no restoration costs outside of the Pine Island Plan proposal is the one Lee County needs resolved quickly.”*
2. 03 September 2004 Fax (“Follow Up Questions For Pine Island Report”): The following issues and/or questions were raised in your 03 September 2004 fax correspondence identified above:
- *“The report assumes that the 910 threshold of Policy 14.2.2 has been met. The current Land Development Code regulations state that “residential development orders (pursuant to Chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.”*

Under these regulations what measures to maintain the adopted level of service have been assumed that will allow any of the existing farm properties to obtain residential development orders?"

No assumptions were made regarding necessary measures to maintain the adopted level of service. However, it was recognized that the GPICPU would provide a "density recapture model" for those property owners, including farmers, who would preserve or create native upland habitat.

- *If no measures to maintain the adopted level of service are assumed, no residential development orders can be issued under today's regulations. Policy 14.2.2, however, has been revised to limit the current restrictions on residential development orders. The policy states that the "effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the density otherwise allowed on the property." This modification significantly modifies the current prohibition on residential development orders allowing developing orders to be issued at one-third maximum allowable density. This policy modification, therefore, gives development rights that are currently not available. How is this or can this be recognized in the appraisal?*

First and foremost, the impact of these changes to Policy 14.2.2 has already been recognized in the appraisal because the appraiser consultant has relied upon Pine Island land sales subject to this policy modification. Thus, the market has already "priced-in" the impact of the modifications of Policy 14.2.2.

Secondly, the statement that this policy "gives development rights that are currently not available," is a partial truth. Only undeveloped properties with adequate native upland habitat will receive development rights under the amended policy without capital expenditures. Farmland, however, which has been cleared and improved with an engineered and permitted surface water management system usually does not have native upland habitat which may be conserved in order to recapture allowable residential density. These properties must "create" native upland habitat at a significant capital cost.

- **Special Assumptions:** Passive agriculture properties (855 acres) identified herein are assumed to have no native upland habitat. Passive agriculture consists of such uses as silva culture and grazing. These properties usually contain a reduced but significant canopy.

Restoration of the farmland to its original topography and hydrological conditions would require a significant modification to the SFWMD permit, as well as major earthwork to remove the existing system of ditches and dikes.

Extensive modifications to any agricultural water management permit will be required of any conversion from farmland to residential development. The real

question is what is the difference in residential development costs comparing existing practices versus the "density recapture" option.

Of the three paragraphs above, I believe that paragraph number three is of greatest importance. Interviews with residential developers on Pine Island indicate that land development costs typically range from \$18k to \$20k per lot. Clustered development should cost slightly less due to a reduction in the quantity of internal roadways, water and sewer lines, landscaping, irrigation and lower common area maintenance fees.

It should be noted, that "clustered development" is most prevalent and successful throughout Lee County in master planned, multi-phased, gated, amenitized communities. These developments typically are characterized by a master homeowner's association and a smaller association for a particular pod. As noted security is necessary and amenities typically include golf courses, tennis courts, swimming pools, etc. Furthermore, the end user is typically a second home owner and is looking for a low maintenance environment and product. Capital for this type of residential development is often obtained through the "community development district" process.

- *Additional Questions: The Density Reduction/Ground Water Resource lands are, for the most part, far removed from any infrastructure, including the county's arterial and collector road system. In addition, the agricultural operations in the DR/GR areas are often very different from the agricultural operations on Pine Island. What is the justification to use these DR/GR transactions as comparables?*

These sales were used because they have a maximum allowable residential density of 1 du/10 acre. This density (1du/10 acres) is consistent with the maximum allowable density permitted by the GPICPU for properties without native upland habitat. Several of these sales are located along Corkscrew Road where infrastructure is not dissimilar to Pine Island. Land uses in this market area include golf courses, limestone extraction, agricultural uses (e.g. citrus groves) etc.

- *On page 51, the report states that the "sliding scale does not address farmland preservation." The proposed regulations, in section 24-655 (d)(1)b.2 and 3 allow that "native habitat" may include up to 5% in lakes and 10% in commercial or non-commercial agriculture. Doesn't this reduce the assumed impacts?*

On page 5 of material presented in Addendum L of the HREA report, there is a footnote in the Engelhardt Hammer & Associates report which identifies proposed language in the Land Development Code ("LDC") that would allow up to 10% of the preserved or restored area to consist of commercial or non-commercial agricultural land. Yes, I believe this would reduce some of the forecasted impacts, so long as the quantities of land credited under this portion

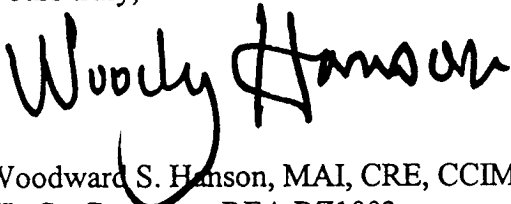
of the LDC reach an economy of scale sufficient to encourage market participants to utilize this credit.

- *The report assumes that all active and passive agricultural lands are affected by the Coastal Rural designation. Excluding the lands converting from Outlying Suburban to Coastal Rural, planning records indicate that there are 27 acres of passive and 40 acres of active agriculture land in urban designations. These lands are not affected by the Coastal Rural designation. How does this affect the total value?*

If these lands were excluded from the analysis, because they are in an urban designated area, then it is probable the final opinion would decrease accordingly.

Hopefully, the responses contained herein are sufficient and helpful in answering the questions which have been raised regarding the analyses, findings, and conclusions of the Hanson Real Estate Advisors, Inc. Appraisal Consulting Assignment Number 03-10-01. If you have any further questions, or if I may be of further assistance, please contact me at your earliest convenience.

Yours truly,



Woodward S. Hanson, MAI, CRE, CCIM
FL. St. Cert. Gen. REA RZ1003

CC: Timothy Jones, Esq.