Agenda Item Cover Sheet

Agenda Item No. _____

Meeting Date December 14, 2021

☐ Consent Section ☒ Regular Section (Public Comment Provided) ☐ Public Hearing

Subject:	As a result of the legal challenge filed on November 15, 2021 and the operation of Section 163.3184 (3), Florida Statutes, direct the County Attorney's Office to advertise and set a first public hearing for January 12, 2022, at 10:00 a.m. and a second public hearing for February 2, 2022 at 10:00 AM, declaring zoning in progress and considering the enactment of an ordinance extending the current moratorium on the acceptance and processing of applications for rezonings and Planned Development zoning modifications within a portion of the Residential Planned-2 ("RP-2") Future Land Use Designation of the Future of Hillsborough Comprehensive Plan, until the conclusion of State of Florida Division of Administrative Hearings Case No. 21-3467GM and any appeals thereof.
Department Name:	County Attorney's Office
Contact Person:	Johanna M. Lundgren Contact Phone: 272-5670

Staff's Recommended Board Motion:
As a result of the legal challenge filed on November 15, 2021 and the operation of Section 163.3184 (3), Florida Statutes, direct the County Attorney's Office to advertise and set a first public hearing for January 12, 2022, at 10:00 a.m. and a second public hearing for February 2, 2022 at 10:00 AM, declaring zoning in progress and considering the enactment of an ordinance extending the current moratorium on the acceptance and processing of applications for rezonings and Planned Development zoning modifications within a portion of the Residential Planned-2 ("RP-2") Future Land Use Designation of the Future of Hillsborough Comprehensive Plan, until the conclusion of State of Florida Division of Administrative Hearings Case No. 21-3467GM and any appeals thereof.

Financial Impact Statement:
This action does not increase or decrease any County Department budgets in any year.

Background:
On October 8, 2019, the Board of County Commissioners directed the study and preparation of potential amendments to the Residential Planned-2 ("RP-2") Future Land Use Category and the Land Development Code (LDC).

Ordinance 19-26 was adopted by the Board of County Commissioners on December 4, 2019, and provided for a 270 day moratorium on new applications for rezonings and Planned Development zoning modifications within the Balm and Sun City Center Community Plan areas of the RP-2 category, that would increase the number of allowable residential units or non-residential square footage and/or reduce required buffers, unless the reduction is to provide for connectivity to adjacent property or rights-of-way.

Due to the emergence of the COVID-19 crisis in March 2020, Planning Commission staff shifted their outreach methods to virtual technology and encountered a decrease in community participation and engagement. In order to allow the necessary time for outreach and community engagement in the formulation of the amendments, on June 17, 2020, the Board adopted an Ordinance providing for an extension of the moratorium for 270 days beginning September 1, 2020. This extension to the moratorium resulted in an end date of May 29, 2021.

In early 2021, the resurgent COVID-19 pandemic continued to pose challenges to citizen and stakeholder participation related to these amendments. During its February 4, 2021 public hearing, the Board directed that the County Attorney's Office prepare and advertise an ordinance providing for the moratorium period to be extended to December 31, 2021 in order to allow sufficient time for staff and consultants to engage stakeholders in both in-person and virtual participation opportunities regarding the proposed amendments.

On October 14, 2021, following many months of public engagement and preparation of the proposed amendments in coordination with stakeholders, the Board adopted the RP-2 Comprehensive Plan Amendments (CPA 20-11), along with related Land Development Code (LDC) Amendments.

On November 15, 2021, Reed Fischbach, Christopher "Bear" McCullough and Joseph B. Sumner, III filed a petition for administrative hearing with the Division of Administrative Hearings (DOAH Case No. 21-3467) challenging the adopted plan amendments pursuant to Section 163.3184, Florida Statutes. A Notice of Hearing has been issued scheduling the administrative hearing on February 15 through 18, 2022. The County Attorneys' Office has retained Gregory Stewart and Carly Schrader of Nabors Giblin & Nickerson to assist in the representation of the County in the challenge.

Section 163.3184 (3), Florida Statutes, provides that if an adopted plan amendment is timely challenged by a petition for administrative hearing, the plan amendment does not become effective until the conclusion of the challenge. The County Attorney's Office and outside counsel recommend that the Board declare zoning in progress and schedule public hearings for the extension of the moratorium for the time required for resolution of the DOAH case. The extension of the moratorium will provide clear direction to staff and applicants that rezoning and Planned Development modification applications, which would be subject to the pending amendments, will not be accepted until the case is resolved and the amendments are in effect. This action will ensure that the intent of the Board, as evidenced in its adoption of the comprehensive plan and LDC amendments on October 14, is supported during the time period necessary for the resolution of these administrative proceedings while also complying with Florida statutes and Ordinance 21-37.

List Attachments:
Ordinance 21-37, which adopted Comprehensive Plan Amendment 20-11
Petition for Formal Administrative Hearing in DOAH Case No. 21-3467GM and Notice of Hearing

ORDINANCE

21-37

FINAL
10/14/2021
JML

ORDINANCE NO. 21-37

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ADOPTING AN AMENDMENT TO THE FUTURE OF HILLSBOROUGH COMPREHENSIVE PLAN FOR UNINCORPORATED HILLSBOROUGH COUNTY, AS ADOPTED BY ORDINANCE NO. 89-28, AS AMENDED, CHANGING THE FUTURE LAND USE ELEMENT TEXT OF THE PLAN.

Upon motion by Commissioner **Stacy White**, seconded by Commissioner **Gwen Myers**, the following ordinance was adopted by a vote of **6** to **1**; Commissioner(s) **Ken Hagan** voting "No."

WHEREAS, the Hillsborough County Board of County Commissioners adopted a comprehensive plan for Unincorporated Hillsborough County entitled *Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County* on July 12, 1989 by Ordinance 89-28 (the "Comprehensive Plan"); and

WHEREAS, Section 163.3184, Florida Statutes, provides for a process for adoption of amendments to comprehensive plans; and

WHEREAS, following a public hearing held on July 19, 2021, to consider the proposed amendment to the Comprehensive Plan, the Hillsborough County City-County Planning Commission recommended approval of the proposed amendment; and

WHEREAS, on August 5, 2021, the Board of County Commissioners of Hillsborough County, Florida, transmitted to the applicable reviewing agencies, local governments and local governmental agencies as prescribed by Section 163.3184, Florida Statutes, the below-described proposed amendment to the Comprehensive Plan along with supporting data and analyses; and

Future Land Use Text Amendment	**Plan Elements**	**Description and Purpose of Proposed Text Amendment**
HC CPA 20-11	Future Land Use	Text change to applicable adopted goals, objectives and policies regarding the Residential Planned-2 Future Land Use Category

and;

WHEREAS, pursuant to Section 163.3184(3)(b), Florida Statutes, the Hillsborough County Board of County Commissioners considered at a public hearing held on October 14, 2021, the proposed amendment to the Comprehensive Plan summarized above.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN A PUBLIC HEARING ASSEMBLED THIS 14TH DAY OF OCTOBER, 2021, IN TAMPA, FLORIDA:

SECTION 1. PURPOSE AND INTENT. This Ordinance is enacted to carry out the purpose and intent of and to exercise the authority set out in the Community Planning Act and Chapter 97-351 Laws of Florida, as amended.

SECTION 2. ADOPTION OF THE AMENDMENT TO THE COMPREHENSIVE PLAN. The amendment to the Comprehensive Plan, as described above, is hereby adopted by the Board of County Commissioners. The specific amendment to the Comprehensive Plan described above and adopted by the Board of County Commissioners is attached hereto as Attachment "A" and is incorporated by this reference as an integral part of this Ordinance.

SECTION 3. SEVERABILITY. If any section, phrase, sentence or portion of the Plan Amendment adopted by this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, phrase, sentence or portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. EFFECTIVE DATE. The effective date of the Plan Amendment shall be thirty-one (31) days after the state land planning agency notifies Hillsborough County of receipt of a complete plan amendment package or if properly challenged, the effective date shall be the date a final order is entered by the Administration Commission or the state land planning agency determining the adopted amendment to be in compliance. No development orders, development permits or land uses dependent on a Plan Amendment may be issued or commence before the Plan Amendment has become effective.

SECTION 5. CONCLUSION OF MORATORIUM. Upon the effective date of the Plan Amendment, the moratorium established in Ordinance 19-26, as extended by Ordinances 20-11 and 21-11, shall conclude.

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

I, Cindy Stuart, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners, do hereby certify that the above and foregoing ordinance is a true and correct copy of an ordinance adopted by the Board of County Commissioners of Hillsborough County, Florida, in its public hearing of **October 14**, 20**21**, as the same appears on record in Minute Book **545** of Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this **22nd** day of **October**, 20**21**.

CINDY STUART,
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

APPROVED BY COUNTY ATTORNEY
as to Form and Legal Sufficiency

By: _____
Senior Assistant County Attorney

Attachment "A"

CPA 20-11

RP-2 FLUE ADOPTION 10-14-2021

Planned Villages

There are several areas of the County located outside the Urban Service Area (USA) boundary with land use designations that may be appropriate for up to 2 units per acre development sometime in the future. As these areas experience future growth, the development is envisioned to balance this growth with a rural character or a small-town design while providing improvements to supporting infrastructure and services. Given the location of these areas outside the Urban Service Area, it will not be Hillsborough County's first priority to plan or program infrastructure to serve these areas within the planning horizon of this Plan. The capital costs associated with the provision of infrastructure needed to serve these planned villages must be provided by the developer of such a project and will not be funded by Hillsborough County. All land for capital facilities shall continue to count toward project density. These new communities shall integrate into existing communities with respect to the natural and built environment with a compatible and balanced mix of land uses including residential, employment, and the supporting services such as schools, libraries, parks, and emergency services. The intent of these villages is to maximize internal trip capture and avoid the creation of single dimensional communities that create urban sprawl.

For Balm specifically, this section seeks to align with the intent of the Balm Community Plan. Areas defined as Residential Planned-2 (RP-2) may be appropriate for development utilizing tools that incentivize rural and agricultural preservation, design rules, form-based code principles, or use of transects. The Balm Community shall be involved in an ongoing basis with the County and other community partners as the Balm Community Plan is implemented.

Lands outside the USA, identified as RP-2, that meet the Planned Villages intent may generally be considered for density greater than 1 unit per 5 gross acres with certain conditions as stated within this adopted section and the Land Development Code (LDC). Areas that do not meet the Planned Villages policies in RP-2 are permitted for 1 unit per 5 gross acres, which is the base density, unless otherwise specified by existing zoning. Developments may be considered to achieve a maximum of 2 units per gross acre in the Balm Village Plan Area (per Policy 33.3) and the North Village Plan Area (per Policy 33.4) where community benefits are provided, consistent with Policy 33.7. Up to 4 units per gross acre may be achieved in the North Village Plan Area with Transfer of Development Rights (TDRs). These TDRs are a no net density increase to the rural service area and are transferred at a density of one to one, from and to the North Village Plan Area. The Balm Village Plan Area is designated as a TDR sending area. The capital costs associated with the provision of infrastructure needed to serve these Planned Villages shall be provided by the developer.

Objective 33: **Purpose of RP-2 land use plan category**

The purpose of the RP-2 land use plan category is to discourage the sprawl of low-density residential development into rural areas, to protect and conserve agricultural lands, and direct potentially incompatible development away from environmental areas (I.e., wetlands, corridors, significant native habitats, etc.). This Objective also recognizes the unique characteristics within selected portions of Hillsborough County and thereby establishes two sub-planning areas or Villages in RP-2 designated land outside the Urban Service Area. The intent of this Objective is to support private property rights, promote community benefits that protect the rural nature of the community on the whole, and preserve the areas' natural, cultural, and physical assets.

Policy 33.1: Development Intent

Development within the Planned Villages is intended to do the following:

1. Prioritize the timeliness of appropriate land use, zoning, growth and development within the

Rural Service Area;

2. Provide for a compatible transition of land use between the rural and urban service area;
3. Preserve the rural character, encourage opportunities for continued agriculture;
4. Offset biological and ecological impacts of new development;
5. Maintain surface water quality and improve where possible;
6. Provide an interconnected system of native habitat preserves, greenways, parks, and open space;
7. Provide multimodal mobility options and connectiveness that reduces impacts of new single occupancy vehicle trips;
8. Encourage non-residential uses in downtown Balm or within the commercial nodes depicted in the Planned Village part of the LDC;
9. Create efficiency in planning and in the provision of infrastructure;
10. Balance housing with workplaces, jobs, retail and civic uses and;
11. Provide a variety of housing types to support residents of diverse ages, incomes, family sizes, and lifestyles.

Policy 33.2: Establishment of Sub-Planning Areas and Villages

In response to ongoing development within southern Hillsborough County, a Balm Village Plan Area and North Village Plan Area has been designated for the Residential Planned (RP-2) land use plan category consistent with Map 33.1. The purpose is to guide development within the RP-2 designated lands for each specific area. The Balm Village Plan Area and North Village Plan Area maintain standards for development, further defined in the Land Development Code (LDC) regulations.

Map 33.1: RP-2 Sub Plan Designation Areas Map

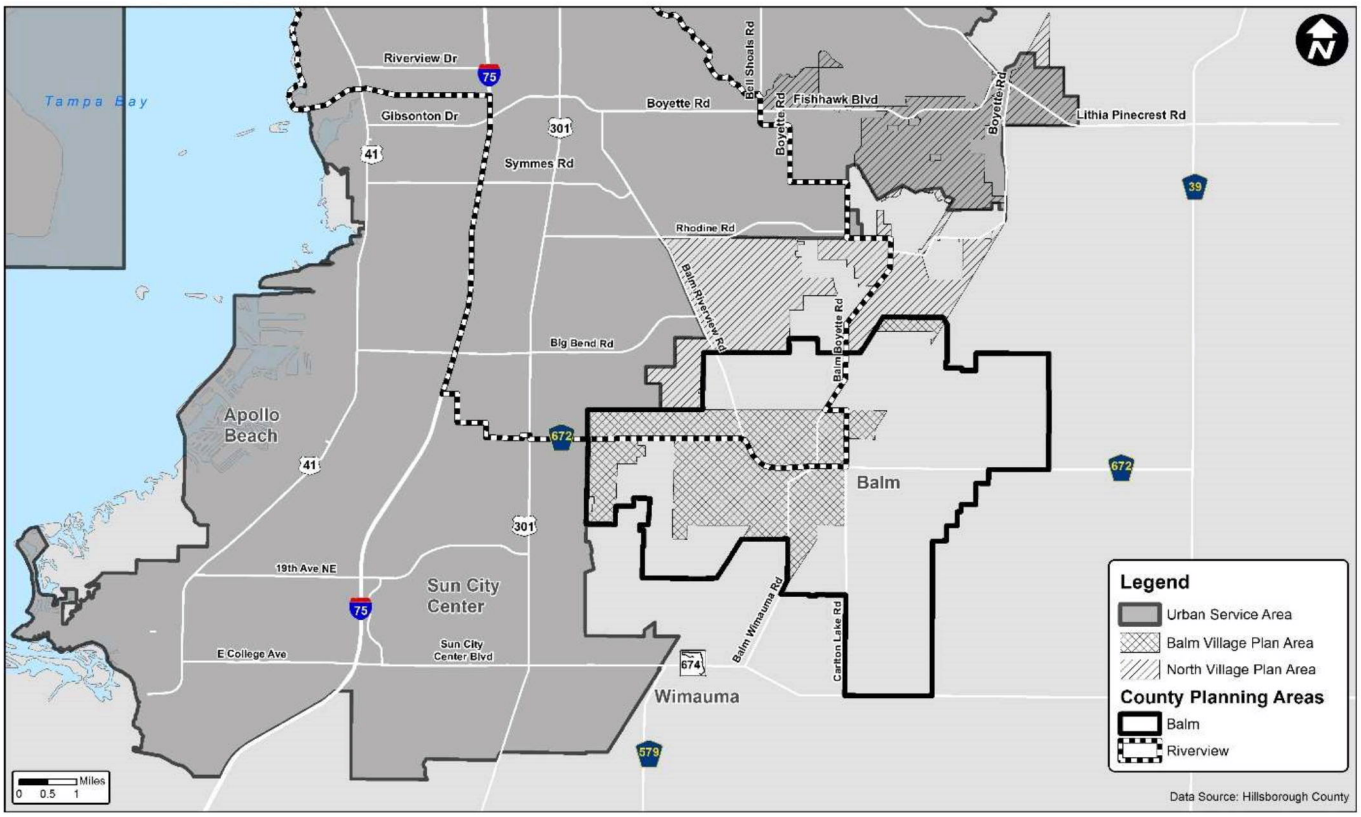


Table 33.1: Amount of Development

The table below displays the amount of development that may be considered in the North Village Plan Area and the Balm Village Plan Area. This table below shall be read in conjunction with Policy 33.3 and Policy 33.4.

DENSITY	NORTH VILLAGE PLAN AREA	BALM VILLAGE PLAN AREA
Base Density	**1 du/5 gross acres** (unless more intense zoning district present)	**1 du/5 gross acres** (unless more intense zoning district present)
Max Density	**Parcels with 50 Acres or Greater:** **Up to 2 du/gross acre** • with *design rules (planned villages and community benefits) from the LDC* • *Perimeter buffers and minimum 2.5% open space requirement (internal to site)* **Parcels less than 50 acres** (aggregation can occur per Policy 33.4) **4 du/gross acre with TDRs**	**Parcels with 160 acres or Greater:** **Up to 2 du/gross acre** • with *design rules (planned villages and community benefits) from the LDC* • *Perimeter buffers and minimum 2.5% open space requirement (internal to site)* **Parcels less than 160 acres** (aggregation can occur per Policy 33.3) **Designated TDR sending area**

Policy 33.3: Balm Village Plan Area

The Balm Community Plan, found in the Livable Communities Element of the Comprehensive Plan and Figure 23A (Balm Community Plan Concept Map), identify the vision and goals for this sub-planning area. To address these goals while balancing growth within the Balm Village Plan Area a two-tiered approach in the application of densities and intensities shall be applied for parcels (1) 160 acres or greater, and (2) less than 160 acres. The purpose is to promote development in a form providing for the rural character and preservation of open spaces as part of the development program. Each tier provides standards for development including provisions for residential development. In addition, to address the desired rural character of the area, the Balm Village Plan Area serves as a "sending area," consistent with the TDR Program outlined in Objective 32 of the Comprehensive Plan and implementing Land Development Code provisions.

Policy 33.3.1: Designated Parcels 160 Acres or Greater: Developments that seek consideration of density greater than 1 unit per 5 gross acres must preserve at least 2.5% of the project site's gross acreage for Open Space and 1.5% for Neighborhood Centers situated internal to the site or demonstrating connectivity to other existing or planned villages. Additional lands for internal open space and Neighborhood Centers are encouraged through community benefits. In addition, perimeter buffers and/or perimeter lots are required around the entirety of the perimeter, other than where a Neighborhood Center is present or except where to allow for the placement of site access or connections to adjacent Neighborhoods/Planned Villages. Open Space shall be consistent with the requirements of the LDC.

Policy 33.3.2: Designated Parcels Less than 160 Acres: To develop tracts of land in the RP-2 land use plan category at a potential density greater than 1 du per 5 gross acres on property less than 160 acres, properties must aggregate with adjacent properties to a total of 160 acres or greater. Proposed developments must preserve at least 2.5% of the project site's gross acreage for Open Space situated internal to the site. Adjacent parcels must have property lines or portions in common or facing each other and have vehicular and pedestrian access connected by internal roadways other than those shown on the Hillsborough Corridor Preservation Plan. Neighborhood Center requirements may be satisfied by the acreage of the existing village if shown the total aggregated village contains at least 1.5% lands dedicated to a Neighborhood Center.

Policy 33.4: North Village Plan Area

The North Village Plan Area includes a two-tiered approach that differs from the Balm Village Plan Area due to the availability of developable acreage. The application of densities and intensities shall be applied for parcels (1) 50 acres or greater, and (2) less than 50 acres.

Policy 33.4.1: Designated Parcels 50 Acres or Greater: The ability to develop tracts of lands in the RP-2 land use plan category in the North Village Plan Area as shown on Map 33.1 may be accomplished at densities of up to 2 units per gross acre, if the development is 50 Acres or Greater and can be shown to meet the intent of the Planned Village concept described in Policies 33.5 – 33.10 except as noted in the zoning exceptions in Policy 33.5. Community benefits are also required based on Policy 33.7. Developments must preserve at least 2.5% of the project site's gross acreage for open space situated internal to the site. Developments of 100 acres or more must preserve at least 1.5% of the total project site's gross acreage for Neighborhood Centers; additional land is encouraged through community benefits. In addition,

perimeter buffers and/or perimeter lots are required around the entirety of the perimeter, other than where a Neighborhood Center is present or except where to allow for the placement of site access or connections to adjacent Neighborhoods/Planned Villages. As a "receiving area," consistent with the TDR Program outlined in Objective 32 of the Comprehensive Plan and implementing Land Development Code provisions, up to 4 units per gross acre may be accomplished with Transfer of Development Rights (TDRs). These transfers are one to one and may only occur within the North Village Area and represent a no net increase in density for the Village.

Policy 33.4.2: Designated Parcels Less than 50 Acres: To develop tracts of land in the RP-2 land use plan category at a potential density greater than 1 du per 5-acre on property less than 50 acres, properties must aggregate with adjacent properties to a total of 50 acres or greater and shall comply with Policy 33.4.1 which includes providing community benefits found in Policy 33.7. Developments must preserve at least 2.5% of the project site's gross acreage for open space situated internal to the site. Total aggregated village developments of 100 acres or more must preserve at least 1.5% of the total project site's gross acreage for Neighborhood Centers; additional land is encouraged through community benefits. Adjacent parcels must have property lines or portions in common or facing each other and have vehicular and pedestrian access connected by internal roadways other than those shown on the Hillsborough Corridor Preservation Plan. Neighborhood Center requirements may be satisfied by the acreage of the existing village if shown the total aggregated village contains at least 1.5% lands dedicated to a Neighborhood Center.

Policy 33.5: Zoning Conformance Exception

Parcels within the RP-2 land use plan category shall not be subdivided into smaller parcels to avoid the RP-2 criteria and requirements applicable to larger parcels, except with the following:

1. Some parcels within the RP-2 land use plan category may carry a zoning district more intense and permit densities greater than 1 unit per 5 gross acres prior to the application of the RP-2 designation on a parcel.

2. Public facilities are not subject to density or intensity standards.

3. Zoning granted prior to the adoption of these Planned Villages polices are considered conforming with the Plan and may develop in accordance with the applicable underlying zoning district as adopted.

Policy 33.6: Design Rules

Design rules shall be promulgated through the LDC. These rules must be met for an applicant to obtain density greater than 1 unit per 5 gross acres. The design rules include, but are not limited to, site plan principles related to form, mixture of housing types and lot sizes, buffering and screening, open space, and transportation (mobility).

Policy 33.7: Community Benefits and Services

In order to achieve densities above the base density of 1 unit per 5 gross acres (unless otherwise specified by existing zoning), community benefits shall be required for proposed developments. These options shall be located where possible and feasible to provide the greatest benefit to the entirety of the North Village Plan Area and Balm Village Plan Area except in cases of compatibility with surrounding uses, environmental consideration, or competing community benefit options. Community benefits shall be located to and in areas with internal and external connectivity and shall be located adjacent or in close proximity to activity and points of interest for the community. Community benefits are in addition to and do not replace any policy or standard within this section or the LDC. Specific community benefit options are defined in the LDC.

Community Benefits exceeding the minimum required in the Table below by 100% may count as two benefits as approved by the Board of County Commissioners.

See below for a listing of the community benefits further described in Part 5.04.00 of the LDC:

Community Benefits

Proposed Neighborhoods requesting (50) fifty or more residential units shall conduct at least two public meetings and shall notify all registered Neighborhood, Homeowner and Civic Associations within the Community Planning Area as defined within the Livable Communities Element to discuss the utilization of Community Benefit Options. These meetings shall occur within the defined Community Plan boundary. One meeting shall occur prior to the application submittal. A second meeting shall occur after an application is submitted but prior to the letter of notice mailing deadline. Proof of each meeting, in the form of an affidavit, shall be provided that identifies the date, location, and timing of each meeting, as well as a list of Associations contacted and meeting minutes. This information shall be submitted to County staff by the Proof of Letter of Notice deadline.
The number of required Community Benefits are as follows: • At least two benefits shall be offered for developments less than 50 acres (for projects that are aggregating), • At least three benefits shall be offered for developments less than 100 acres but equal to or greater than 50, • At least four benefits shall be offered for developments less than 160 acres but equal to or greater than 100, • At least five benefits shall be offered for developments less than 320 acres but equal to or greater than 160, • At least six benefits shall be offered for developments greater than 320 acres.
Tier 1: Community Benefits Priority List For projects under 100 acres, at least one community benefit must be provided from Tier 1. For projects greater than 100 acres, at least two community benefits must be provided from Tier 1.
1) Mobility Fee Alternative Satisfaction Agreement (MFASA), in which, subject to the requirements of the Mobility Fee Program Ordinance, the developer may offer to construct, pay for, or contribute, a qualified capital improvement or right-of-way contribution to a mobility facility in the mobility network in order to satisfy its mobility fee obligation. The proposed improvement or contribution must be approved by the BOCC.
2) Buffering/screening: Provide 25% more trees and shrubs (round up to nearest whole number) within the buffer area beyond the minimum found in Table 5.04-4 as part of the rezoning.**
3) Contribution to a Balm Community Plan Goal: Benefit shall directly or indirectly make a contribution towards furthering a defined goal within the Balm Community Plan as exhibited in the Livable Communities Element, this benefit may include agricultural, transit, high speed internet access or other contributions. The requirement for the fulfillment of the proposed contribution shall be identified during the rezoning review ****

4) Large lot development All housing types shall consist of Type 2 or larger lots (Per Table 5.04-2) minimum and maximum housing type not required.** The required block perimeter requirements shall not be required within a quarter mile of the Neighborhood Center. The location of Type 2 or larger lots shall be provided in the general rezoning site plan
5) Land dedication and conveyance to the County for land within the Neighborhood to be used for any type of recreational use (includes General Recreational Use for indoor/outdoor, Passive Recreation, and/or Regional Recreation Use defined by the Code provided property is publicly owned) and public civic/community uses (such as, but not limited to, community centers, libraries, fire or police stations). Park lands shall be a minimum 10 acres in size while other public civic/community uses shall be a minimum 2 acres in size. Final approval will be made by the BOCC. The required time for the conveyance of land to the County shall be identified during the rezoning review.*** and **
6) Construction of on-site Neighborhood Center uses (limited to those uses defined in Section 5.04.03) within the minimum required Neighborhood Center acreage at a ratio of 42 sq. ft. per housing unit utilizing 30 percent of the proposed units. Construction shall comply with applicable Section 5.04.03 Design Rules.*
Tier 2
7) Contribute to off-site Neighborhood Center (nodal development): Construct off-site non-residential of at least 42 square feet per proposed dwelling unit utilizing 30 percent of the proposed unit count. The development and uses must follow this Code including uses, block sizes, buffering/screening. Off-site construction is to occur in nodes as part of the Balm Community Plan or as agreed upon by County staff and in compliance with the Code. The proposed off-site square footage (and existing if present) cannot exceed the maximum FAR permitted on the off-site parcel(s) or exceed the square footage permitted under the Locational Criteria Comprehensive Plan Policies. The off-site non-residential uses shall be part of the subject PD rezoning as a non-contiguous portion.*
8) Designate additional on-site land: 50% to 75% above the minimum 1.5% of the gross project acreage required for Neighborhood Center for uses as permitted Section 5.04.03). Additional acreage beyond the minimum 1.5% of the gross project acreage shall not be used for density calculations. **
9) Construct multi-use trail: Consistent with Hillsborough County 2019 Greenways and Trails Master Plan or Community Plan or construct at least two connections to an adjacent County trail system. Within the project, the connections shall be constructed per the multi-use standard as found within the Hillsborough County Transportation Technical Manual, be publicly accessible, and be at least a half mile in length within the project. Such trail connections shall connect the Trail to Neighborhood Centers, or connect to other trails found in the Long-Range Transportation Plan with approval from Parks and Recreation, Community Infrastructure Planning, and other appropriate reviewing agencies, as applicable.**
10) Land dedication for ELAPP or TDR utilization: Removing density from the Rural Service Area. The applicant provides at least 10 percent of gross site acreage.***
11) Four or more different housing types: (Per Section 5.04.03.B) No less than 20 percent and no more than 40 percent shall be provided of each housing type).The location of each housing type shall be provided in the general rezoning site plan.**

*These community benefits shall require that at least 50% of required on-site or off-site square footage shall receive a Certificate of Occupancy prior to the final plat approval of more than 75% of the residential units. 100% of the on-site or off-site square footage shall receive a Certificate of Occupancy prior to the final plat approval of more than 90% of the residential units.

**Compliance with these community benefits shall be identified/demonstrated on the general site plan of the rezoning application.

***These community benefits shall require written agreement/acceptance by the receiving entity of the dedicated land to provide assurances at the time of rezoning that the benefit will be provided. Additionally, documentation of the conveyance of that land to the receiving entity required prior to final plat approval.

****Benefit may be used more than once if offering multiple benefits satisfying or furthering distinct Community goals.

Objective 33.a: Timeliness

A planned village within the Rural Service Area (RP-2) shall demonstrate that the proposed development is properly timed and not premature for the Rural Service Area, as outlined by the policies in this objective.

Policy 33.a.1: Goal

It is the goal of Hillsborough County to maximize and prioritize the timeliness of appropriate land use, zoning, growth and development within the Urban Service Area prior to the utilization of land use, zoning, growth and development in the Rural Service Area.

Policy 33.a.2: Two-tiered land use plan category

Hillsborough County will continue to implement a two-tiered land use plan category in areas designated RP-2, which permit a base density of 1 unit per 5 gross acres, with consideration of up to 2 dwelling units per gross acre for projects that meet the intent of the Planned Village concept as embodied in these policies and implementing Land Development Code.

Policy 33.a.3: Capital Improvement Costs

Capital improvement costs associated with the provision of public facilities and services as determined by the appropriate regulatory agency or public service provider to service the permitted development shall be the responsibility of the developer. All land for capital facilities shall continue to count toward project density.

Policy 33.a.4: Capital Facilities

When a new RP-2 development with density greater than 1 unit per 5 gross acres is proposed, the applicant shall meet with Hillsborough County to determine if capital facilities for emergency services, parks, and libraries are needed to serve the area and if so, encourage development to integrate land for those facilities into the design of their project, to the extent feasible. All land for capital facilities for emergency services, parks and libraries shall continue to count towards project density.

Policy 33.a.5: Rural Services

Alternative methods for delivery of rural services may be considered with County approval. Services shall be consistent with the Comprehensive Plan, Land Development Code, and shall further an expressed goal of the Balm Community Plan.

Policy 33.a.6: Potable Water Supply Well Sites

Publicly owned potable water supply well sites within an existing or proposed wellfield are not subject to density or intensity standards. Subdivision of a potable water supply well site from a parent parcel shall be allowed, provided the parent parcel independently meets all applicable standards. Potable water supply well sites shall be reviewed as public service facilities as defined in the LDC, not as Planned Developments.

Policy 33.a.7: Mobility Planning

In the review of development applications, consideration shall be given to the present and long-range configuration of the roadways involved. The five-year transportation Capital Improvement Program, TPO Transportation Improvement Program, or Long-Range Transportation Needs Plan shall be used

as a guide to consider designing the development to coincide with the ultimate roadway configuration as shown on the adopted Long Range Transportation Plan.

Policy 33.a.8: Provision of Connectivity to Roadway Networks

Proposed villages including (50) or more residential units that do not have access to roadways shall provide connectivity to secondary roadway networks.

Policy 33.a.9: Community Connectivity & Gates

Gates or other security measures that inhibit connectivity, vehicular or pedestrian, shall not be permitted on through and connecting streets between developments.

Policy 33.a.10: Multimodal Mobility Master Plan

To plan for the area, the Board of County Commissions shall develop a multimodal mobility master plan to identify existing roadways that need improvement and to identify a multimodal local street network that connects residential development and future commercial nodes to focus future investments. These roadways shall be added to the Hillsborough County Corridor Preservation Plan map of the Transportation Element of the Comprehensive Plan. Upon adoption of the multimodal mobility master plan, future development shall be consistent with the plan.

Policy 33.a.11: Vision Zero

Where possible and feasible Vision Zero principles, as outlined in the adopted *Vision Zero Action Plan* (2017), shall be incorporated into all mobility facility improvements.

Policy 33.a.12: School Sites

Applicants of re-zonings containing 50 or more residential units shall consult with the School District of Hillsborough County regarding potential school sites prior to submitting a rezoning application. Applicants shall provide an affidavit confirming the time, location and meeting notes.

Policy 33.a.13: Residential Support Uses

Lands of three (3) acres or less designated and constructed for residential support uses within neighborhood centers of similar size, scale and massing to the prevailing residential uses shall not be subtracted from residential density calculations.

Policy 33.a.14: Open Space

Open Space shall be prioritized for conservation to promote wildlife corridors and minimize negative effects on neighboring significant wildlife habitat.

Policy 33.a.15: Wildlife Corridors

During development review processes, the County shall consider the effects of development on significant wildlife habitat and protect wildlife corridors from fragmentation. Where necessary to prevent fragmentation of wildlife corridors, the County shall require the preservation of effective

wildlife corridors within development projects.

Policy 33.a.16: Agriculture

Up to 50% of the planned village open space may be satisfied by the inclusion of a Community Farm and similar uses designed to incorporate the agricultural use into the planned village or to further a Community Plan.

Policy 33.a.17: Timeliness Indicators

The timeliness of development within a proposed village shall be evaluated by the County. A project is considered premature if any of the following indicators are present:

1. The proposed site plan is not compatible with the surrounding area as further described in Policy 33.a.18.
2. The proposed planned development does not meet or exceed all Land Development Code requirements.
3. The project would adversely impact environmental, natural, historical or archaeological resources, features or systems to a degree that is inconsistent with the policies of the Comprehensive Plan.
4. The project does not achieve internal trip capture either through the construction of onsite mix of uses or by being located within a 2 mile walking/driving distance of built uses, or some combination thereof that ensure the goal of providing internal trip capture throughout the village.

Policy 33.a.18: Compatibility Review

Compatibility is of the utmost importance as this area is primarily rural in area; any development with densities higher than 1 unit per 5 gross acres must be sensitive to the predominant rural character. Factors to address compatibility can include, but are not limited to, height, scale, mass and bulk of structures, circulation and access impacts, landscaping, lighting, noise, odor and architecture to maintain the character of existing development. Residential uses adjacent to residential uses shall demonstrate compatibility through the creation of a similar lot pattern, enhanced screening/buffering or other means. Maintenance and enhancement of rural, scenic, or natural view corridors shall also be a consideration in evaluating compatibility in this area.

ADOPTION 10.14.2021

FUTURE OF HILLSBOROUGH
RURAL LAND USE CLASSIFICATION

Residential Planned-2 (RP-2)

RESIDENTIAL GROSS DENSITY

Base density of 1 dwelling unit per 5 gross acres. Consideration of densities up to 2.0 dwelling units per gross acre may be achieved by demonstrating a Planned Village concept and by providing community benefits identified in this Plan on 160 acres or greater in the Balm Village Plan Area, and 50 acres or greater in the North Village Plan Area. Smaller lands may aggregate into established villages as identified in this Plan. The North Village Plan Area shall allow for the transfer of up to 2 dwelling units per gross acre densities between 2 separately owned or commonly held properties, whether or not they are contiguous to each other. The designated sending and receiving area shall be inside the limits of the RP-2 category within the North Village Plan. RP-2 lands within the Balm Village Plan Area shall be established as a sending zone to the Urban Service Area. No property shall be left with less development rights than there are existing dwellings on said properties, or less than 1 dwelling unit development for any parcel which would otherwise be eligible for a dwelling unit.

Land development regulations shall specify the thresholds for non-residential uses appropriate to the scale of the project.

TYPICAL USES

Agriculture, residential, suburban scale neighborhood and community commercial, office uses, and residential support uses may be considered. Non-residential uses shall meet locational criteria for specific land use if the project is not utilizing the Planned Village Concept.

MAXIMUM FLOOR AREA RATIO OR SQUARE FEET

Suburban scale neighborhood commercial, office, residential support uses, limited to 110,000 sq. ft. or .25 FAR, whichever is less intense.

Projects utilizing the Planned Village Concept are not limited by square footages but may develop up to .35 FAR. Square footages will be limited by the scale relationship within the project.

In addition, Residential Planned-2 projects utilizing the Planned Village Concept shall not be limited by the locational criteria found elsewhere in the Plan for neighborhood commercial uses. All such projects in this Plan category shall demonstrate internal relationships and pedestrian integration among uses.

SPECIFIC INTENT OF CATEGORY

To designate areas that are suited for agricultural development in the immediate horizon of the Plan, but may be suitable for Planned Villages as described in this Plan, in order to avoid a pattern of single dimensional developments that could create urban sprawl. Other uses including rural scale neighborhood and community commercial, office, residential support uses, and agriculture uses, may be permitted when complying with the Goals, Objectives, and Policies of the Future Land Use Element and applicable development regulations.

Developments within the RP-2 Future Land Use category that request approval to achieve densities in excess of 1 dwelling unit per 5 gross acres under the Planned Village concept shall be on a central public water and sewer system. All capital improvement costs associated with the provision of public facilities and services, including, but not limited to, public water, wastewater, fire, police, schools, parks, and libraries shall be the responsibility of the developer and not the responsibility of Hillsborough County.

Rezonings shall be approved through a site planned controlled rezoning district in which the site plan demonstrates detailed internal relationships and pedestrian integration among uses, controlled through performance standards adopted in the Land Development Regulations.

The below Future Land Use Policy 4.5 and Future Land Use Appendix A are proposed to be amended to be found consistent with the proposed provisions of both the RP-2 and WVR-2 Land Use Categories as presented in HC/CPA 20-11 and HC/CPA 20-13.

~~**FLUE Policy 4.5:**~~

~~Clustered development can only be used for projects where substantial open space can be maintained and still retain the rural character of the surrounding community or where clustering is used to achieve the requirements of the RP-2/WVR-2 or PEC ½ land use categories. The open space maintained in this case can be used for passive recreational use, bona fide agricultural purposes or placed into a conservation easement. These lands are not intended to be used for future development entitlements.~~

FLUE Policy 4.5:

Clustered development can only be used for projects where substantial open space can be maintained and still retain the rural character of the surrounding community or where clustering is used to achieve the requirements of the PEC ½ land use category. The open space maintained in this case can be used for passive recreational use, bona fide agricultural purposes or placed into a conservation easement. These lands are not intended to be used for future development entitlements.

0000173049-01

Tampa Bay Times
Published Daily

STATE OF FLORIDA
COUNTY OF Pinellas, Hillsborough, Pasco, Hernando Citrus } ss

Before the undersigned authority personally appeared **Jean Mitotes** who on oath says that he/she is **Legal Advertising Representative** of the **Tampa Bay Times** a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: **Public Hearing** was published in **Tampa Bay Times: 7/28/21** in said newspaper in the issues of **Tampa Bay Times\Local B\Full Run**

Affiant further says the said **Tampa Bay Times** is a newspaper published in Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida each day and has been entered as a second class mail matter at the post office in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he/she neither paid not promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Signature Affiant

Sworn to and subscribed before me this **.07/28/2021**

Signature of Notary Public

Personally known X or produced identification

Type of identification produced

JESSICA ATTARD
Commission # GG 308686
Expires March 28, 2023
Bonded Thru Budget Notary Services

NOTICE OF PUBLIC HEARING

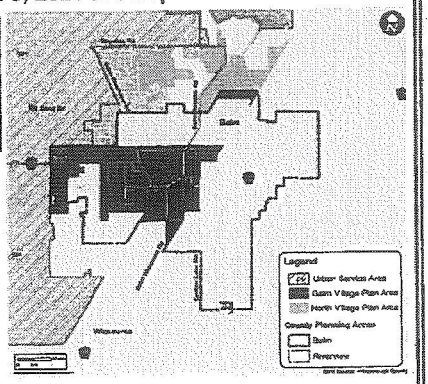
NOTICE IS HEREBY GIVEN THAT THE HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS WILL CONSIDER THE PROPOSED CHANGES TO THE FUTURE OF HILLSBOROUGH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE (LDC) FOR UNINCORPORATED HILLSBOROUGH COUNTY. THE PLAN AMENDMENTS AND LDC AMENDMENTS WILL AFFECT LAND LOCATED IN THE GENERALIZED MAP AS DESCRIBED HEREIN. THE BOARD OF COUNTY COMMISSIONERS MAY CONSIDER ALTERNATIVE PROPOSALS WHICH MAY AFFECT ALL OR PARTS OF THE LAND IDENTIFIED.

The Board of County Commissioners will hold a Public Hearing to consider an ordinance amending the Comprehensive Plan, Hillsborough County Ordinance 89-28, as amended, and the LDC on:

Thursday, August 5, 2021 at 6:00p.m.**

Text Amendment to the Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County

HC/CPA 20-11: Future Land Use Element Text change provides new policy guidance for the Residential Planned-2 (RP-2) Future Land Use category*



*Hillsborough County: Land Development Code Amendment - 21-0288: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, AMENDING ORDINANCE 92-5, AS AMENDED, THE LAND-DEVELOPMENT CODE; AMENDING ARTICLE 5, DEVELOPMENT OPTIONS, RELATING TO PLANNED VILLAGE: PURPOSE AND SUB-PLAN DESIGNATION AREAS; APPLICABILITY; DEFINITIONS; DESIGN RULES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

All interested parties are invited to appear at the meeting and be heard with respect to the proposed ordinance. All meeting facilities are accessible in accordance with the Americans with Disabilities Act. Any additional necessary accommodations will be provided with a 48-hour notice. For more information, please call the Communications Department at: (813) 272-5275 (TTY: 301-7173). If any person decides to appeal any decision made by the Hillsborough County Board of County Commissioners in regard to any matter considered at such meeting or hearing, such person will need a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made. For copies of the proposed amendment and further information, contact the Planning Commission at (813) 272-5940 or visit: **www.planhillsborough.org.**

****This will be a hybrid meeting. The Board of County Commissioners (only) will establish a quorum at the County Center Building, 2nd Floor, 601 E. Kennedy Blvd., Tampa, FL 33602. The rest of the board, staff, and public participate virtually. Virtual participation in this public hearing is highly encouraged and is available through communications media technology, as described below.**

The BOCC fully encourages public participation in its communications media technology hearing in an orderly and efficient manner. For information on how to view or participate in a virtual meeting, visit: https://www.hillsboroughcounty.org/en/government/meeting-information/speak-at-a-virtual-meeting.

Anyone who wishes to speak at the public hearing will be able to do so by completing the online Public Comment Signup Form found at: **https://HillsboroughCounty.org/SpeakUp.** You will be required to provide your name and telephone number on the online form. This information is being requested to facilitate the conferencing process. The Chair will call on speakers by name in the order in which they have completed the online Public Comment Signup Form. Prioritization is on a first come, first-served basis. Participation information will be provided to participants who have completed the form after it is received by the County. All callers will be muted upon calling and will be unmuted in the submission order after being recognized by the Chair by name. Up to three (3) minutes are allowed for each speaker. **Signups for the August 5th public hearing will not be accepted after 5:30 PM on the day of the hearing.** Public comments offered using communications media technology will be afforded equal consideration as if the public comments were offered in person.

The public can listen and view the public hearing live in the following ways:

- The County's official YouTube channel: YouTube.com/HillsboroughCountyMeetings
- The County's HTV channels on cable television: Spectrum 637 and Frontier 22
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July 28, 2021
0000173049-01

0000185905-01

Tampa Bay Times
Published Daily

STATE OF FLORIDA
COUNTY OF Pinellas, Hillsborough, Pasco, Hernando Citrus } ss

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Signature Affiant

Sworn to and subscribed before me this **09/29/2021**

Signature of Notary Public

Personally known X or produced identification

Type of identification produced

NOTARY PUBLIC STATE OF FLORIDA
JESSICA ATTARD
Commission # GG 308688
Expires March 28, 2023
Bonded Thru Budget Notary Services

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Thursday, October 14, 2021 at 6:00p.m.**

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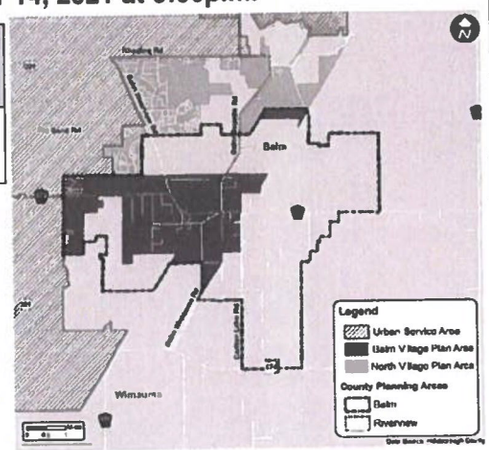

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September 29 2021

0000185905-01

FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

October 22, 2021

Honorable Cindy Stuart
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Diana Leon

Dear Ms. Stuart:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 21-37, which was filed in this office on October 22, 2021.

Sincerely,

Anya Owens
Program Administrator

AO/lb

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

REED FISCHBACH, CHRISTOPHER W. "BEAR" McCULLOUGH, and JOSEPH B. SUMNER, III,

Petitioners,

HC/CPA 20-11
DOAH CASE NO.

v.

HILLSBOROUGH COUNTY, a political subdivision of the State of Florida,

Respondent.
_____/

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioners, REED FISCHBACH ("Fischbach"), CHRISTOPHER W. "BEAR" McCULLOUGH ("McCullough"), and JOSEPH B. SUMNER, III ("Sumner") (collectively "Petitioners"), hereby request a formal administrative hearing pursuant to Sections 120.569, 120.57(1), and 163.3184(5)(a), Florida Statutes, to determine whether the amendment to the Hillsborough County Comprehensive Plan (the "Plan") adopted by Respondent, HILLSBOROUGH COUNTY (the "County") on October 14, 2021 through Ordinance No. 21-37, is in compliance with the Community Planning Act, Section 163.3161, *et seq.*, Florida Statutes (the "Act"). In support thereof, Petitioners allege as follows:

STATEMENT OF THE ISSUE

1. On October 14, 2021, the County adopted HC/CPA 20-11 (the "Plan Amendment"), amending the Plan's Future Land Use Element ("FLUE") to revise portions of the Residential Planned-2 ("RP-2") Future Land Use category. This Petition alleges that the Plan Amendment is not "in compliance" with the Act, as defined in Section 163.3184(1)(b), Florida Statutes.

PARTIES

2. Petitioner Fischbach is an individual and a resident of Hillsborough County. For purposes of this proceeding, Petitioner Fischbach's address, email address, and telephone number are that of his counsel: Jacob T. Cremer, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., 401 East Jackson Street, Suite 2100, Tampa, Florida 33602, (813) 223-4800, jcremer@stearnsweaver.com.

3. Petitioner McCullough is an individual and a resident of Hillsborough County. For purposes of this proceeding, Petitioner McCullough's address, email address, and telephone number are that of his counsel: Jacob T. Cremer, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., 401 East Jackson Street, Suite 2100, Tampa, Florida 33602, (813) 223-4800, jcremer@stearnsweaver.com.

4. Petitioner Sumner is an individual and a resident of Hillsborough County. For purposes of this proceeding, Petitioner Sumner's address, email address, and telephone number are that of his counsel: Jacob T. Cremer, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., 401 East Jackson Street, Suite 2100, Tampa, Florida 33602, (813) 223-4800, jcremer@stearnsweaver.com.

5. The County is a political subdivision of the State of Florida charged with maintaining and implementing a comprehensive plan in compliance with the Act. The County's address, email address, and telephone number for purposes of this proceeding are that of the Hillsborough County Attorney: Christine Beck, 601 East Kennedy Boulevard, 27th Floor, Tampa, Florida 33601, Phone: (813) 272-5670, Fax: (813) 272-5231, beckc@hillsboroughcounty.org

NOTICE OF AGENCY ACTION

6. Petitioners received notice of the County's adoption of the Plan Amendment on October 14, 2021, the date of adoption, by their attendance and their representatives' attendance at the adoption hearing. Pursuant to Section 163.3184(5)(a), Florida Statutes, Petitioners had thirty days from the date of adoption to file a petition challenging the County's action. This petition is timely filed.

STANDING

7. Petitioners meet the definition of "affected persons" as defined in Section 163.3184(1)(a), Florida Statutes. Petitioners own property in Hillsborough County. Petitioners also own and operate businesses in Hillsborough County. Petitioners, on their own and through their representatives and counsel, provided oral or written comments, recommendations, and objections to the County between the transmittal hearing on August 12, 2021 and adoption of the Plan Amendment challenged in this petition on October 14, 2021. As "affected persons," Petitioners are entitled to bring this action.

8. Additionally, the Plan Amendment adversely affects Petitioners' substantial interests by revising portions of the RP-2 Future Land Use category, which applies to Petitioners' properties. As adopted, the Plan Amendment harms Petitioners' ability to develop their properties by significantly limiting achievable residential densities and imposing unlawful exactions disguised as community benefits. Accordingly, the Plan Amendment adversely affects not just Petitioners' substantial interests, but their constitutionally protected property rights as well.

PROCEDURAL BACKGROUND

9. The RP-2 Future Land Use category has historically implemented a two-tiered approach in the application of densities and intensities to promote self-sustainable development.

For parcels 160 acres in size or greater, the ability to achieve the maximum available density of up to two units per gross acre was dependent on demonstrating a Planned Village Concept, which required clustering and a mix of uses providing shopping and job opportunities.

10. In late 2019, the Hillsborough County Board of County Commissioners (the "Board") initiated a moratorium on new rezoning applications in RP-2 and directed the Planning Commission and County staff to study and prepare formal amendments to the RP-2 policies.

11. While the moratorium was in place, the County retained Kimley-Horn to conduct a land use study of the RP-2 Future Land Use category and provide recommendations for updates to the RP-2 policies. The County also retained WTL+a to produce a demographic and real estate market analysis for the RP-2 study area.

12. The County introduced these studies to the public at a community open house on March 11, 2020. At an April 7, 2020 meeting, the County provided a summary of the community feedback received to date and discussed initial recommendations for the proposed amendments.

13. The County held a virtual work session on June 18, 2020 to share and solicit feedback on the initial recommendations from the studies. In August and September of 2020, the Planning Commission offered and conducted one-on-one and group meetings where the public could ask questions and provide comments on those recommendations. Then, the County held a virtual meeting on November 5, 2020, and an in-person open house on November 7, 2020, both of which offered the public and stakeholders an opportunity to provide feedback on the final study results and recommendations.

14. On February 1, 2021, the Planning Commission held its first public hearing to consider the proposed amendments to the RP-2 policies. The proposal at that time, based on a draft of the amendments dated January 20, 2021, added a new concept of community benefits. To obtain

maximum residential densities, new developments in RP-2 would be required to provide community benefits and services that support the needs of the community, improve infrastructure, and enhance economic opportunity. The number of community benefits required would be dependent on the size of the project and could be selected from a menu of options.

15. The County subsequently conducted additional community and stakeholder meetings on April 1, April 24, May 3, and May 22, 2021, and a final community meeting was held on June 8, 2021 to provide an update on the proposed amendments based on input the County received.

16. Petitioners, their representatives, or their counsel participated and provided input in many of these meetings, as well as others.

17. On July 19, 2021, the Planning Commission conducted its second public hearing, this time based on a substantially revised draft of the proposed amendments. The revised draft introduced a tiered system for community benefits and added a requirement that development applications demonstrate the proposed development is properly timed and not premature. Ultimately, the Planning Commission voted to recommend approval of the proposed amendments as presented. Petitioners, their representatives, or their counsel participated and provided comments to the Planning Commission at the public hearing.

18. The Board considered the proposed amendment at a public hearing on August 5, 2021. During the hearing, the Board struck multiple community benefit options, directed County staff to make additional revisions, and then voted to approve Resolution R21-073 transmitting the proposed amendment to the State Land Planning Agency for review pursuant to Section 163.3184(3)(b)1., Florida Statutes. Petitioners participated and provided comments to the Board at the public hearing.

19. Despite having invested more than 18 months of community and stakeholder engagement and consultant analysis into the process of developing revisions to the RP-2 policies, at a public hearing on October 14, 2021, the Board adopted a number of last-minute modifications. Ultimately, the Board approved Ordinance No. 21-37, adopting its substantially modified Plan Amendment pursuant to Section 163.3184(3)(c)1., Florida Statutes.

DISPUTED ISSUES OF MATERIAL FACT

20. Petitioners' statement of disputed issues of material fact is below. Petitioners reserve the right to amend and supplement these disputed issues of material fact.

21. Whether the Plan Amendment is "based upon relevant and appropriate data and analysis" and is, therefore, "in compliance" with Section 163.3177(1)(f), Florida Statutes.

22. Whether the Plan Amendment "provides for orderly and balanced economic, social, and physical development" of the RP-2 land use category, "guides future decisions in a consistent manner," "establishes meaningful and predictable standards for the use and development of land" and "provides meaningful guidelines for the content of more detailed land development and use regulations" and is, therefore, "in compliance" with Section 163.3177(1), Florida Statutes.

23. Whether the Plan Amendment improperly includes "documents adopted by reference but not incorporated verbatim into the plan" and is, therefore "not in compliance" with Section 163.3177(1)(b), Florida Statutes.

24. Whether the Plan Amendment renders the Plan internally inconsistent and is, therefore, "not in compliance" with Section 163.3177(2), Florida Statutes.

25. Whether the Plan Amendment and Plan as amended include at least two planning periods, one covering at least the first 5-year period occurring after the Plan's adoption and one

covering at least a 10-year period and are, therefore, "in compliance" with Section 163.3177(5), Florida Statutes.

26. Whether the Plan Amendment is "based upon relevant and appropriate data and analysis" as required specifically for the Future Land Use Element and is, therefore, "in compliance" with Section 163.3177(6)(a)2, Florida Statutes.

27. Whether the Plan Amendment includes adequate criteria to coordinate future land uses with topography and soil conditions and the availability of facilities and services and is, therefore, "in compliance" with Section 163.3177(6)(a)3, Florida Statutes.

28. Whether the Plan Amendment includes policies, guidelines, principles, and standards to achieve a balance of uses in the RP-2 area that foster vibrant, viable communities and economic development opportunities, allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business, and accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period and is, therefore, "in compliance" with Section 163.3177(6)(a)4, Florida Statutes.

29. Whether the Plan Amendment is "based upon relevant and appropriate data and analysis" of the minimum amount of land needed to achieve the goals and requirements of Section 163.3177 and is, therefore, "in compliance" with Section 163.3177(6)(a)8, Florida Statutes.

30. Whether the Plan Amendment "discourages the proliferation of urban sprawl" and is, therefore, "in compliance" with Section 163.3177(6)(a)9., Florida Statutes.

31. Whether the Plan Amendment "ensures that private property rights are considered" and is, therefore, "in compliance" with Section 163.3177(6)(i), Florida Statutes.

32. Whether the Plan Amendment and the Plan as amended are "based upon relevant and appropriate data and analysis" regarding the existing transportation system, growth trends and travel patterns, intermodal deficiencies, projected transportation system levels of service and systems needs based upon the future land use map and projected integrated transportation system, and how Hillsborough County will correct existing transportation deficiencies, meet identified needs of the projected transportation system and advance the purpose of this paragraph and the other elements of the Plan and are, therefore, "in compliance" with Section 163.3177(6)(b), Florida Statutes.

33. Whether the Plan Amendment and the Plan as amended include sufficient principles, guidelines, standards, and strategies regarding the provision of housing for all current anticipated future residents, provision of adequate sites for future housing, including affordable workforce housing, formulation of housing implementation programs, creation of affordable housing to avoid the concentration of affordable housing units only in specific areas of the jurisdiction, distribution of housing for a range of incomes and types, actions to partner with private and nonprofit sectors to address housing needs and minimize costs and delays and are, therefore, "in compliance" with Section 163.3177(6)(f)1 and (4), Florida Statutes.

34. Whether the Plan Amendment and the Plan as amended are "based upon relevant and appropriate data and analysis" regarding housing needs, including specified requirements, projected households and related characteristics derived from population projections, and minimum housing needs, including for affordable workforce housing, for current and anticipated future residents and are, therefore, "in compliance" with Section 163.3177(6)(f)2, Florida Statutes.

35. Whether the Plan Amendment is "in compliance" with the requirements of Section 163.3180, Florida Statutes.

STATEMENT OF ULTIMATE FACTS

36. Petitioners' statement of ultimate facts and specific facts that warrant reversal is set forth below. Petitioners reserve the right to amend and supplement this statement of ultimate and specific facts.

37. Section 163.3177(1)(f), Florida Statutes, requires that all "plan amendments shall be based upon relevant and appropriate data and analysis by the local government." The required data "must be taken from professionally accepted sources" and "may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption. "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."

38. The Plan Amendment reflects failure by the County to rely upon relevant and appropriate data and analysis demonstrating that future land use allocations and densities as distributed by the future land use map and controlled by future land use policies, principles, guidelines, standards and strategies as amended are based on:

a. permanent and seasonal population projections and are sufficient to accommodate projected population demand through the planning horizon;

b. population projections for the unincorporated area and will ensure the unincorporated area captures its proportional share of total countywide population and population growth;

c. the amount of land required to accommodate growth;

d. the amount of land required to accommodate projected housing demands based on assessment of housing needs by type of housing, household size, household income and other factors impacting the housing delivery process;

e. the character of undeveloped land;

f. the discouragement of urban sprawl;

g. the need for capital investment and economic development

h. providing a balance of uses that foster vibrant, viable communities and economic development opportunities; and

i. allowing the operation of real estate markets to provide adequate choices for permanent and seasonal residents.

39. The Plan Amendment is not based on appropriate data and adequate supporting analyses and studies demonstrating that policies, principles, guidelines, standards and strategies as amended provide for orderly and balanced economic, social, and physical development of the RP-2 land use category and shall guide future decisions in a consistent manner.

40. The Plan Amendment is not based on appropriate data and adequate supporting analyses and studies demonstrating that policies, principles, guidelines, standards, and strategies as amended achieve internal consistency and coordination between all elements of the Plan and that all elements are based on consistent population estimates and projections.

41. The Plan Amendment is not based on appropriate data and adequate supporting analyses regarding availability of facilities and services; character of undeveloped lands, soils, topography and natural resources; and the minimum amount of land needed to achieve the goals and requirements of Section 163.3177, Florida Statutes.

42. The Plan Amendment does not include policies, guidelines, principles, and standards to achieve a balance of uses in the RP-2 land use category that foster vibrant, viable communities and economic development opportunities. The permitted uses, densities, and intensities are arbitrary and not based on data and supporting analysis.

43. The Plan Amendment does not include policies, guidelines, and standards to allow the operation of real estate markets in the RP-2 land use category to provide adequate choices for permanent and seasonal residents, and therefore is based on adequate data and supporting analysis.

44. The Plan Amendment is not based on data and analysis evaluating how the Plan Amendment is coordinated with the Transportation Element and that the statutory requirements pertaining to the Transportation Element have been evaluated to achieve consistency between the FLUE and Transportation Element. The Plan Amendment does not evaluate how it relates to, is based on, or impacts the data and analysis and policy requirements set forth in Section 163.3177(6)(b), Florida Statutes, including but not limited to: traffic circulation, including the types, locations, and extent of existing and projected major thoroughfares, transportation routes, bicycle and pedestrian ways; maps showing the location of existing and proposed transportation system features and how those are coordinated with the Future Land Use Map in relation to the amended RP-2 policies and other provisions of the Plan Amendment; and growth trends and travel patterns, interactions between land use and transportation, existing and projected intermodal deficiencies and needs, and existing and projected transportation levels of service.

45. The Plan Amendment is not based on data and analysis evaluating how the Plan Amendment is coordinated with the Housing Element and that the statutory requirements pertaining to the Housing Element have been evaluated to achieve consistency between the FLUE and Housing Element. The Plan Amendment does not evaluate how it relates to, is based on, or impacts the data and analysis and policy requirements set forth in Section 163.3177(6)(b), Florida Statutes, including but not limited to: the provision of housing for all current and anticipated future residents, the provision of adequate sites for future housing, including affordable workforce housing; the formulation of housing implementation programs; the housing needs assessment

required by Section 163.3177(6)(f)2., Florida Statutes; and the specific programs and actions to partner with the private sector and minimize costs for affordable housing as required by Section 163.3177(6)(a)2., Florida Statutes.

46. The Plan Amendment is not based on data and supporting analysis which demonstrates that the RP-2 land use category applies density and other development standards based on the character of undeveloped lands, soils, topography, and the availability of public facilities.

47. Section 163.3177(1), Florida Statutes, requires the comprehensive plan to "guide future decisions in a consistent manner," "establish meaningful and predictable standards for the use and development of land," and "provide meaningful guidelines for the content of more detailed land development and use regulations."

48. The Plan Amendment is vague, lacks adequate standards to provide meaningful guidelines, and vests the County with unbridled discretion to determine the application of the provisions on an ad hoc basis. The following provisions would allow the County to arbitrarily approve or deny land use, zoning, and development applications:

a. FLUE Policy 33.7 provides that, "[i]n order to achieve densities above the base density of 1 unit per 5 gross acres . . . community benefits shall be required for proposed developments." The policy then provides a tiered list of eligible community benefits for the applicant to choose from. However, many of these eligible community benefits require cooperation of other landowners or require the County or other agencies to accept dedicated lands. Thus, the Plan Amendment places nearly unfettered discretion in the County to approve rezoning applications and create a scenario that is both arbitrary and encourages unlawful exactions from landowners.

b. FLUE Objective 33.a. requires planned villages within RP-2 to demonstrate that "the proposed development is properly timed and not premature." FLUE Policy 33.a.17 includes a list of timeliness indicators that the County will evaluate to determine whether a project is premature. If any one of the timeliness indicators are present, the project is considered premature. That list includes: "[t]he proposed planned development does not meet or exceed all Land Development Code requirements." As written, the Plan Amendment allows the County to arbitrarily deny a rezoning if the proposed planned development does not *exceed* Land Development Code requirements, thereby vesting the County with unbridled discretion in review of development applications.

c. Many of the policies included in the Plan Amendment are written in a descriptive manner. The Definitions Section of the Plan includes definitions for "shall" and "should" to differentiate between mandatory and non-mandatory provisions of the Plan. Yet, the Plan Amendment includes many ambiguous terms that will allow for arbitrary decision making in the review of land development regulations and development orders.

d. The Plan does not define a plan horizon or long-term planning timeframe as required by Section 163.3177(3), Florida Statutes, yet the Plan Amendment makes references to "planning horizon" and "immediate horizon" including the RP-2 land use classification, which indicates that such lands are suited for agricultural use through the immediate planning horizon. The purpose of this statement is unclear, could be interpreted to disallow other uses through the immediate planning horizon, and is not defined by a designated timeframe.

e. FLUE Policy 33.1 provides vague intent language stating that "development within the Planned Villages is intended" to do certain things. It does not provide

meaningful guidance for regulations and otherwise lacks standards. In addition, it is internally inconsistent with other policies in that it requires development within RP-2 to balance housing with workplaces, jobs, and retail; yet, the RP-2 land use category does not permit retail and workplaces outside of certain specified areas. As such, it is not possible for development in those areas to balance housing with workplace and retail uses.

f. FLUE Policy 33.a.14 requires open space to be prioritized for conservation, but does not indicate if this is intended to apply in addition to other open space policies that specify percentages and related clustering policies.

g. FLUE Policy 33.a.18 is vague in regard to what constitutes the prevailing residential uses for the purpose of determining similar height, scale, mass, and bulk.

h. FLUE Objective 33.a requires a development to demonstrate that it is not premature. However, it provides no measures for making that determination and the implementing policies listed for Objective 33.a lack sufficient guidelines to direct implementing regulations and ensure consistency in evaluating development orders. The implementing policies utilize vague and tentative terms, such as "consideration."

i. FLUE Policy 33.a.11 does not define mobility facility improvements, nor does it define what would make implementation of Vision Zero Action Plan (2017) "principles" feasible. The Vision Zero Action Plan does not utilize the term "principles" and includes various references to developers and the private sector. This policy does not provide sufficient clarity to understand if it is intended to apply as a development order review requirement.

j. FLUE Policy 33.a.17 purports to regulate the timeliness of RP-2 development approvals, but the criteria are not based on timing considerations. The policy

fails to define meaningful guidelines for regulations and does not provide sufficient guidance for determining whether a development order can be approved. Compatibility is not a timing consideration and the criteria for determining compatibility are insufficient as addressed in the following objection to Policy 33.a.18. Adverse impact is not defined for the purpose of determining consistency with other policies of the Plan. The requirement to achieve internal capture by being located within two miles of built uses conflicts with the accepted professional definition of internal capture, which means vehicular trips are captured within the development and do not utilize roadways external to the development. Moreover, this flawed concept of internal capture conflicts with the definition of Planned Village, which refers to the accepted construct of internal capture from onsite non-residential uses. The two-mile distance is arbitrary and not based on data and supporting analysis, and the policy fails to specify a percentage threshold for internal capture.

k. The wording of FLUE Policy 33.a.18 is vague and does not make clear how residential use will be evaluated for compatibility determinations. The policy requires compatibility and lists factors to be considered, including that residential uses must have <u>similar</u> lot patterns to existing residential patterns or provide enhanced screening or buffering. This policy conflicts with the definition of compatibility in the Definitions Section of the Plan, which specifically states that compatible does not mean "the same as." It also fails to specify whether the compatibility test applies for contiguous properties or for greater surrounding areas. It is evident that development within the RP-2 land use category at up to two units per acre and clustered, as required by various policies set forth in the Plan Amendment, would yield lots substantially smaller in size than rural lots at one unit per five acres. As such, the Plan Amendment include policies that are internally

inconsistent with each other and with existing Plan policies as related to lot size and compatibility requirements.

l. FLUE Policy 4.5 states that clustered development can only be used for projects where substantial open space can be maintained and still retain the rural character of the surrounding community, but does not provide any guidelines as to what constitutes "substantial open space" or any standards for retaining "rural character."

49. Section 163.3177(1)(b), Florida Statutes, requires documents adopted by reference into a comprehensive plan to "identify the title and author of the document and indicate clearly what provisions and edition of the document is being adopted." The Plan Amendment adopts by reference provisions set forth in the County's land development code ("LDC") without identifying the title and author of the document and without identifying which provisions and edition of the document is being adopted by reference.

50. Rather than including guidelines for the land development regulations, the Plan Amendment improperly refers to LDC provisions to achieve compliance with the Plan. This is improper because the LDC can be amended without undergoing the statutorily mandated process for adoption of a comprehensive plan amendment; yet, here, the Plan Amendment allows changes to the LDC to effectively amend the Plan, in violation of section 163.3184, Florida Statutes.

51. Section 163.3177(2), Florida Statutes, requires the comprehensive plan elements to be consistent. However, the Plan Amendments render the Plan internally inconsistent, including:

a. FLUE Policy 8.3 provides that densities are applied on a gross residential acreage basis and that each development proposal is considered as a "project." Pursuant to this policy, "[o]nly those lands specifically within a project's boundaries may be used for calculating any density credits." This is inconsistent with the Plan Amendment, which

relies on the provision of community benefits to determine residential density. Many of the eligible community benefits included in the Plan Amendment require consideration of lands outside the "project" boundaries.

b. FLUE Objective 9 requires all development approvals to be consistent with the County's LDC. However, FLUE Policy 33.a.17 contained in the Plan Amendment allows the County to deny development approval if the proposal does not *exceed* LDC requirements.

c. FLUE Policy 16.10 provides a definition of compatibility that is inconsistent with the definition included in the Plan Amendment as FLUE Policy 33.a.18.

d. FLUE Policy 20.1 requires the County to give high priority to the provision of affordable housing. By substantially decreasing available residential densities in RP-2, the Plan Amendment has the opposite effect on the County's housing development.

e. The RP-2-2 land use category description requires a "central public water and sewer system." This term is not defined in the Plan and is inconsistent with the requirement that the developer fund a private public water and sewer system.

f. The Plan Amendment includes various policies referring to a Planned Village, but fails to define which geographic areas of the RP-2 land use category are subject to such policies. Moreover, the Plan Amendment includes requirements for Planned Villages that are inconsistent with the definition of Planned Village contained in the Definitions Section of the Plan.

52. Section 163.3177(6)(a)9., Florida Statutes, requires any amendment to the future land use element to "discourage the proliferation of urban sprawl." Among the primary indicators that a plan amendment does not discourage urban sprawl are that the amendment:

a. promotes, allows, or designates substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development areas;

b. fails to maximize use of existing and future public facilities and services;

c. allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government;

d. discourages or inhibits infill development or redevelopment of existing neighborhoods and communities;

e. fails to encourage a functional mix of uses; and

f. results in poor accessibility among linked or related land uses.

53. The Plan Amendment fails these and other indicators listed in Section 163.3177(6)(a)9., Florida Statutes. Further, the County failed to undertake an evaluation of the presence of these indicators as required by the statute.

54. Section 163.3177(6)(i)1., Florida Statutes, requires local governments to "ensure that private property rights are considered in local decisionmaking." Such private property rights are to be protected in accordance with the legislative intent expressed in Sections 163.3161(10) and 187.101(3), Florida Statutes. The intent of the Legislature, as set forth in Section 163.3161(10), Florida Statutes, is that "all local governmental entities in this state recognize and respect judicially acknowledged or constitutionally protected private property rights." Specifically, it is the intent of the Legislature that "all rules, ordinances, regulations, comprehensive plans and amendments thereto . . . be developed, promulgated, implemented, and applied with sensitivity for private property rights and not be unduly restrictive." Moreover, the

Legislature's intent is outlined in the application of its own State Comprehensive Plan, providing that the Plan "shall be reasonably applied where . . . economically and environmentally feasible, not contrary to the public interest, and consistent with the protection of private property rights. Fla. Stat. § 187.101(3). The Plan Amendment does not "ensure that private property rights are considered" and fails to comply with the Legislature's intent as set forth in Sections 163.3161(10) and 187.101(3), Florida Statutes.

55. Section 163.3177(6)(i), Florida Statutes, requires local governments to include a property rights element in their comprehensive plans which may not conflict with the following statement of rights:

a. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

b. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

c. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

d. The right of a property owner to dispose of his or her property through sale or gift.

56. The Plan Amendment conflicts with the statement of rights set forth in Section 163.3177(6)(i), Florida Statutes.

57. FLUE Policies 33.7, 33.a.3, 33.a.4, 33.a.8, 33.a.12 as well at the introductory language prior to Objective 33, all include provisions requiring developers to fund infrastructure or public facilities and services, including but not limited to central water and sewer, libraries,

emergency services, and parks when needed or required by (unspecified) regulatory agencies, as a basis for obtaining up to 2 units per gross acre and for determining whether development is timely and can proceed. These provisions effectively reduce allowable density and require exaction payments from landowners and developers to achieve the same density previously allowed as of right prior to adoption of the Plan Amendment.

58. The exaction policies contained in the Plan Amendment are "not in compliance" with various requirements of Section 163.3180, Florida Statutes, including:

a. Section 163.3180(1)(a), which requires the local government to adopt principles, guidelines, standard and strategies, including adopted levels of service, when imposing concurrency on public facilities other than those listed in Section 163.3180(1);

b. Section 163.3180(1)(b), which requires the local government to demonstrate that the concurrency requirements can be reasonably met and that the improvements to achieve and maintain the adopted level of service standard for the five year planning period are identified in the capital improvements schedule;

c. Section 163.3180(4), which requires that the level of service standard apply uniformly to all development rather than imposing unique standards on landowners within the RP-2 land use category;

d. Section 163.3180(5)(h)1.c., which requires that the local government allow an applicant to satisfy transportation concurrency through a proportionate share payment for a rezoning or other land use development permit. The exaction policies instead impose a de facto concurrency requirement, which must be satisfied in order to prevent the County from reducing previously authorized density allocations, and that requires the landowner

or developer to fully fund the entirety of the improvement rather than paying a proportionate share; and

e. Section 163.3180(5)(h)2., which prohibits the local government from requiring payment or construction of transportation facilities whose costs would be greater than a development's proportionate share and specifies related methodology requirements.

59. The exaction policies contained in the Plan Amendment also create internal inconsistencies with the Capital Improvements Element ("CIE"), and are therefore "not in compliance" for at least the following reasons:

a. The policies impose concurrency standards on public facilities not subject to concurrency as established by the CIE and do so without establishing level of service standards and service areas.

b. The policies fail to differentiate between capital improvements that are subject to a level of service standard and those that are not, and fail to specify whether required public facilities and services must comply with urban or rural level of service standards and whether such improvements are considered urban or rural for the purpose of determining consistency with applicable policies.

c. The policies fail to distinguish between Category A, Category B and Category C public facilities and fail to address how Category A facilities developed by a private landowner or developer will be conveyed for ownership and operation by a government entity as required by CIE Policy 1.A.

d. The policies fail to address the timing for such improvements and delivery of services and how the County will determine the density assigned to a parcel.

e. The policies fail to distinguish between regional parks and other facilities that serve a countywide need versus infrastructure that serves a local need as required by CIE Policy 1.C.

f. The policies fail to address how a determination of need for a public facility or service will be made as required by CIE Policy 1.D.

g. The policies fail to distinguish between existing deficiencies and projected deficiencies based on background growth versus deficiencies resulting from a particular development as required by CIE Policies 1.D and 2.B.2.a, and fail to ensure that a landowner or developer would be credited against mobility fees and concurrency.

h. The policies fail to address prioritization requirements as set forth in CIE Policy 1.E or address how improvements will be programmed in the Capital Improvement Schedule. These policies are not based on data and supporting analysis to identify the need for improvements and the rationale for imposing more stringent funding requirements on landowners and developers within the RP-2 land use category as compared to other landowners.

i. The policies are internally inconsistent with CIE Policy 4.B. and the implementation requirements of the CIE, which apply concurrency standards only to development orders and not as a basis for maintaining previously established density allocations.

SPECIFIC STATUTES/RULES REQUIRING REVERSAL

60. The specific statutes and rules requiring reversal include, but are not limited to, Chapters 120 and 163, Florida Statutes; Sections 120.57, 120.569, 163.3177, 163.3164, 163.3184, Florida Statutes; and the corresponding goals, objectives, and policies of the Plan.

REQUESTED RELIEF

WHEREFORE, based on the foregoing, Petitioners respectfully request that:

a. The Division of Administrative Hearings schedule a formal administrative hearing to determine whether the Plan Amendment is "in compliance" with the Act.

b. An Administrative Law Judge conduct a formal administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, and enter a Recommended Order finding that the Plan Amendment is "not in compliance" with the Act.

c. The Administration Commission enter a Final Order finding that the Plan Amendment is "not in compliance" with the Act; and

d. Petitioners be granted such additional relief may be deemed just and proper.

Respectfully submitted this 15th day of November, 2021.

STEARNS WEAVER MILLER
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Counsel for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Division of Administrative Hearings with a copy served by electronic mail on the persons identified below, this 15th day of November, 2021:

Honorable Pat Kemp
Commission Chair
c/o Christine Beck, County Attorney
601 E. Kennedy Blvd., 27th Floor
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beckc@hillsboroughcounty.org

/s/ *Jacob T. Cremer*
Attorney

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

REED FISCHBACH, CHRISTOPHER W. "BEAR" MCCULLOUGH, AND JOSEPH B. SUMNER, III,

Petitioners, Case No. 21-3467GM

vs.

HILLSBOROUGH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA,

Respondent.
_____/

NOTICE OF HEARING

A hearing will be held in this case on **February 15 through 18, 2022, at 9:00 a.m**., Eastern Time, or as soon thereafter as can be heard at a location in Tampa, Florida to be determined. Continuances will be granted only by order of the Administrative Law Judge for good cause shown.

ISSUE: Whether Amendment HC/CPA 20-11 to the Hillsborough County Comprehensive Plan, adopted by Ordinance No. 21-37 on October 14, 2021, is "in compliance" as defined in Section 163.3184(1)(b), Florida Statutes (2021), as contested in the Petition for Formal Administrative Hearing.

AUTHORITY: Chapter 120, Florida Statutes; and Florida Administrative Code Chapter 28-106, Parts I and II.

The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the Administrative Law Judge upon request of the parties. Registered e-filers shall request subpoenas through eALJ. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Florida Administrative Code Rule 28-106.106. Failure to appear at this hearing may be grounds for closure of the file without further proceedings.

The agency shall be responsible for preserving the testimony at the final hearing. Fla. Admin. Code R. 28-106.214.

November 30, 2021

HETAL DESAI
Administrative Law Judge
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In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's assistant no later than ten days prior to the hearing. The Judge's assistant may be contacted at (850) 488-9675, via 800-955-8771 (TTY), 800-955-1339 (ASCII), 800-955-8770 (Voice), or 844-463-9710 (Spanish) Florida Relay Service.

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