



**Hillsborough
County Florida**

LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: APP 21-1295

LUHO HEARING DATE: November 15, 2021

The applicant is appealing the Administrator's decision regarding the preliminary plat application for the South Shore Pointe townhome project (Project ID # 5630) that the application cannot be approved under the provisions of the Hillsborough County Land Development Code due to finding by the Hillsborough County School District that the application is unable to meet the required level of service for schools.

The Administrator's decision was rendered on August 6, 2021. The subject appeal was submitted on September 3, 2021 and therefore was timely filed, pursuant to LDC Section 10.05.01.C.1.

ADMINISTRATOR'S SIGN-OFF

Tommy Griffin

m
Mon Nov 1 2021 09:16:54



Written Statement

In the space below, indicate the basis of the appeal.

SEE WRITTEN STATEMENT INCLUDED WITH THIS APPLICATION



September 3, 2021

WRITTEN STATEMENT

GENERAL BACKGROUND

On or about January 5, 2021, the Appellant (through Tampa Civil Design LLC) filed an application for preliminary plan approval for a 190 single family townhome subdivision referred to as South Shore Pointe (Project ID #5630). The proposed South Shore Pointe subdivision (the "Project") is located within the geographic boundaries of the South Shore Corporate Park Development of Regional Impact (the "SSCP DRI"), approved and amended pursuant to Florida Statutes Chapter 380.

As part of the preliminary plan review, the School District provided Hillsborough County with the following comment regarding school capacity (the "School District Response"):

"At this time, there is no high school capacity available for the proposed units, and there is no sited and approved high school capacity project in Five-Year Facilities Work Plan to enter into a proportionate share mitigation agreement. Therefore, the application is unable to meet the level of service."

Following receipt of the School District Response, legal counsel for Appellant began conversations with the Hillsborough County Attorney's Office regarding the Project's vested rights status from school concurrency based on its proximity within the SSCP DRI. On or about March 1, 2021, legal counsel for Appellant delivered a letter to the County Attorney's Office summarizing its position that the Project was vested from school concurrency review.

On August 6, 2021, Adam Gormly, Director of the County's Development Services Department, sent, via email, a letter finding the Project's preliminary plat application was "insufficient for review based on a lack of school capacity to accommodate the project" (the "Administrative Decision"). The Appellant, both as Applicant to the Administrative Decision and a Contract Purchaser of the Subject Property, has been adversely impacted by the Administrative Decision and has standing to appeal the matter to the Land Use Hearing Officer.

VESTING FROM SCHOOL CONCURRENCY

Land development approved under the SSCP DRI is vested from subsequently adopted school concurrency requirements and standards under Florida law, the County's Comprehensive Plan, and the County's Land Development Code ("LDC").

State law mandates that development approved under a DRI may be completed in reliance upon and pursuant to its Development Order. *Fla. Stat. Sec. 380.115* ("Vested rights and duties; changes in statewide guidelines and standards.")



Further, the state's Community Planning Act expressly states that:

"(5) Nothing in this act shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order and development has commenced and is continuing in good faith. Fla. Stat. Sec. 163.3167 ("Scope of act.")"

Additionally, the County's Comprehensive Plan exempts DRIs from going through a specific administrative vesting procedure, recognizing that DRIs are vested as provided under state law (See Hillsborough County Comprehensive Plan "Legal Status of the Comprehensive Plan.")

Lastly, Section 11.02.00, LDC expressly recognizes vesting rights associated with a DRI, including school concurrency, stating that *"development specifically approved in a DRI development order is vested in accordance with Section 163.3167(8), Florida Statutes, (1987), and is exempt from the provisions of these regulations to the extent accorded by the Statutes and the development order."*

Appellant's position is that Hillsborough County approved the SSCP DRI and adopted a Development Order governing development of those specifically approved uses in 2002. As required by state law at the time, impacts of the approved development on school capacity was reviewed and the developer was required to set aside land within the DRI for future school sites. (Those sites have since been conveyed to the Hillsborough County School Board and are now the locations of Thompson Elementary and Lennard High School.) The County approved non-substantial amendments to the Development Order in 2005 and 2007 without additional mitigation required. (The DRI was amended again in 2019, after local adoption of a school concurrency requirement, with no additional mitigation required.)

On or about August 6, 2008, the County amended its Comprehensive Plan and the LDC to adopt and implement school concurrency requirements on new development.

SUMMARY

For reasons stated in the Appellant's March 1, 2021, letter to the Hillsborough County Attorney Office, as supplemented with additional information requested by the County and incorporated herein as part of the record, the Project is vested from school concurrency. Accordingly, the Administrative Decision must be overturned on appeal.



Real estate. Real solutions.

Attachments:

1. School District Response: dated January 5, 2021
2. Appellant's Letter to County Attorney's Office: dated March 1, 2021
3. Administrative Decision: dated August 6, 2021

NOTE: The Appellant intends to deliver a public records request to Hillsborough County requesting copies of all those communications and materials that comprise the record of this matter for appeal. Appellant reserves the right to supplement this Application upon receipt and review of such public records.

Appeal of Administrative Decision Application



**Hillsborough
County Florida**
Development Services

Received
09/03/21
Development Services

Important Instructions to All Applicants:

Email your completed application to ZoningIntake-DSD@HCFLGov.net or visit HCFLGov.net/DigitalDropOff.
All requirements listed on the submittal checklist must be met. Incomplete applications will not be accepted. For questions regarding the appeal process, please call (813) 307-4739 or send an e-mail to ZoningIntake-DSD@HCFLGov.net

Official Use Only

Application No: 21-1295 Intake Date: 09/03/21 Receipt Number: _____ Intake Staff Signature: Ana Lizardo

Administrative Decision Being Appealed

Application Number of Decision: Administrative Decision (August 6, 2021 Letter from Adam Gormly)

Subject Property Address (If Applicable): SE CORNER OF 24TH STREET & SHELL POINT ROAD

Folio(s): 54985.0000

Appellant Information

Name: LENNAR HOMES, LLC Daytime Phone: 813-574-5722
Address: 4600 W. Cypress St. Suite 300
City: TAMPA State: FL Zip: 33607
Email: parker.hirons@lennar.com Fax Number: _____

Appellant's Representative (Must be Legal Counsel)

Name: BROOKS, SHEPPARD & ROCHA, PLLC Daytime Phone: 813-543-5900
Address: 400 N. Tampa Street, Suite 1910
City: TAMPA State: FL Zip: 33602
Email: mbrooks@bsrfirm.com Fax Number: 813-543-5901

I hereby swear or affirm that all the information provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Signature of the Appellant

Michael Brooks, Attorney for Appellant

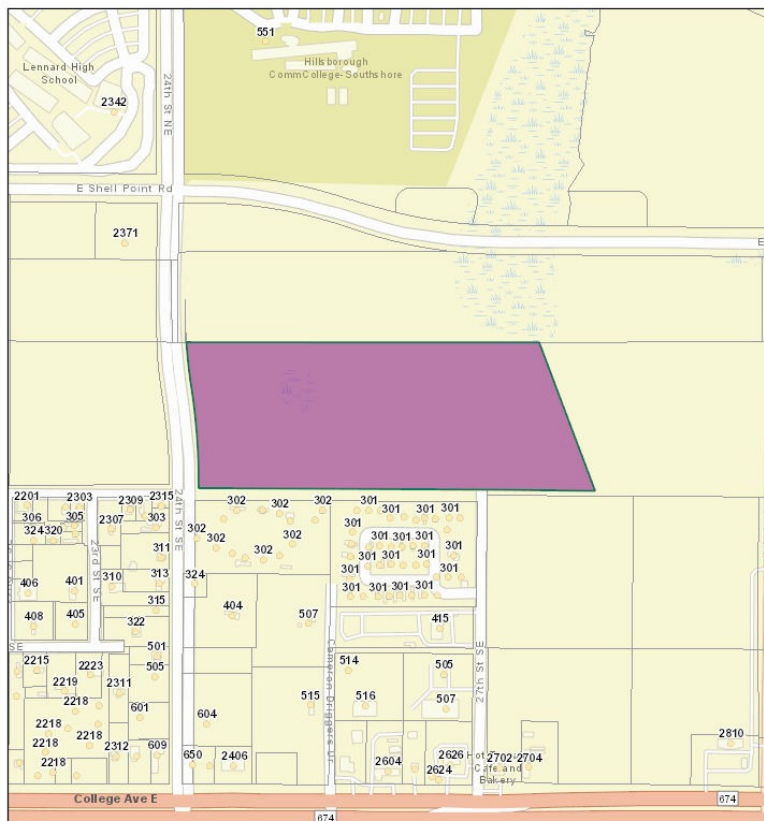
Type or print name



PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Planned Development
Zoning	PD
Description	Planned Development
RZ	19-0067
Zoning Category	Agricultural
Zoning	AR
Description	Agricultural - Rural
Flood Zone:AE	BFE = 30.7 ft
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0659H
FIRM Panel	12057C0659H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X500
Pre 2008 Flood Zone	X
Pre 2008 Firm Panel	120112066C
County Wide Planning Area	Ruskin
Community Base Planning Area	SouthShore
Community Base Planning Area	Ruskin
Planned Development	PD
Re-zoning	19-0067
Note	SEE DRI #249, 01-1160, 19-0067
Major Modifications	04-1579
Personal Appearances	06-2258,07-1532,08-1008, 07-0222,07-0538,08-0414, 12-0483,13-0204, 18-0806, 19-1221
Census Data	Tract: 014122 Block: 1063
Census Data	Tract: 014122 Block: 1051
Future Landuse	SMU-6
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Benefit District	4
Fire Impact Fee	South
Parks/Schools Impact Fee	SOUTH
ROW/Transportation Impact Fee	ZONE 9
Wind Borne Debris Area	140 MPH Area
Competitive Sites	ID: 14
Redevelopment Area	NO

Folio: 54985.0000



September 8, 2021

1:5,332
0 0.04 0.09 0.18 mi
0 0.05 0.1 0.2 km

RS, Hillsborough County - Public Works - Geomatics - Streets & Addresses

Hillsborough County Florida

Folio: 54985.0000
PIN: U-10-32-19-1US-000000-00456.0
DUNE FL LAND I SUB LLC
Mailing Address:
C/O HAWK MANAGEMENT CO LLC
2502 N ROCKY POINT DR STE 1050
TAMPA, FL 33607-5995
Site Address:
0 1
RUSKIN, FL 33570
SEC-TWN-RNG: 10-32-19
Acreage: 23.72459984
Market Value: \$778,177.00
Landuse Code: 5100 AGRICULTURAL

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2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.

21-1295



Appellant's Standing to Appeal

An appellant must show standing to appeal. Please select the reason for appeal below (check one).

1. For a decision of the Administrator that is of general applicability and is not specifically related to a particular parcel of real property or project:
 - ☐ Any resident, landowner or any person having a contractual interest in land in unincorporated Hillsborough County and any duly registered neighborhood organization, as described in Section 10.03.02.F.1 of the Land Development Code (LDC).
2. For a decision of the Administrator that is not of general applicability and is specifically related to a particular parcel of real property or project:
 - ☒ An applicant of an Administrator's decision who is adversely affected by the Administrator's decision, or
 - ☐ A property owner whose property is the subject of the administrative decision and is adversely affected by the Administrator's decision, or
 - ☐ Any owner of real property as reflected on the current year's tax roll, lying within 500 feet in every direction of the property or project that is the subject of the administrative decision, any condominium and/or owners' association with common property lying within 500 feet in every direction of the property or project that is the subject of the administrative decision and any duly registered neighborhood organization, as described in Section 10.03.02.F.1 of the LDC whose boundaries lie within one mile of the property or project that is the subject of the administrative decision, or
 - ☒ Any resident, landowner or any person having a contractual interest in land in unincorporated Hillsborough County and any duly registered neighborhood organization, as described in Section 10.03.02.F.1. of the LDC who demonstrates a direct adverse impact as a result of the administrative decision that exceeds in degree the general interest in community good shared by all persons. The Land Use Hearing Officer shall make the determination if there has been a demonstration of a direct adverse impact sufficient to grant appellant status, however any information considered in making such a determination shall not be considered a part of the record on appeal except as provided in Section 10.05.01 D. of the LDC.