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Lake County Land Planning Agency
VIA E – Mail to Amye King, Deputy Director
Department of Growth Management
AKing@co.lake.fl.us

RE: Proposed changes to Lake County Comprehensive Plan

Dear Land Planning Agency Members:

On behalf of the City of Leesburg, permit me as City Attorney to present to you the concerns the City has with the proposed amendments to the Lake County Comprehensive Plan. Although the City recognizes the need to amend the County's Comprehensive Plan and supports that effort in general, a number of the specific proposals now under consideration are not consistent with the City's own plans for development in and around its borders and some intrude on the City's sovereignty. The concerns are listed in no particular order of importance so no significance should be attached to the order in which they are presented.

In several areas near or immediately adjacent to the City limits, the proposed plan amendments would change the future land use designation of property from its current Urban or Urban Expansion classification, to Rural. The reasoning behind this is unclear. If the goal of the planning process is to discourage urban sprawl and to encourage development in or near areas which are already urbanized and which have adequate services such as water, wastewater and police/fire readily available, one would expect to see the Urban or Urban Expansion classifications adjacent to existing municipalities, with the Rural lands being farther out. By placing Rural designations on land abutting or near municipalities, the County would in effect be inviting developers to "leap over" those lands and site their developments in areas farther from the cities which have a more liberal future land use designation. This creates the urban sprawl everyone purports to be trying to avoid. Leesburg therefore requests that the designation of land near its boundaries as Rural be reviewed and modified to reflect that additional urbanization ought to occur within or around existing urbanized areas.

In addition, some of the areas slated for downgrading to the Rural designation have already been annexed into Leesburg. It is a blatant violation of Leesburg's sovereignty for the County to attempt to overlay its own future land use designation onto property which is within the City's boundaries. Leesburg therefore strongly requests that the proposed new County future land use map be revised to exclude any lands already annexed by Leesburg.

Proposed Policy 1.7.2 professes to encourage joint planning between the County and its cities. Leesburg agrees joint planning would be a good thing. In fact, Leesburg thinks enough of the concept of joint planning that it has been attempting, since the mid – 1990's to formulate a joint planning agreement with Lake County. The first effort failed when then Commissioner Richard Swartz torpedoed the document over a dispute as to when property annexed into a city ought to be required to connect to an available municipal wastewater system. Leesburg and other cities offered reasonable amortization periods but his position essentially was that the affected property ought never to have to connect and should be free to continue using wells and septic tanks in perpetuity, despite the obvious environmental benefits of a central water or wastewater system.

More recently, a joint planning agreement was negotiated about the time the County signed one with Clermont, and was approved by Leesburg. A joint meeting of the City Commission and County Commission was held at which Leesburg fully expected the County Commission to approve the document. However, a bus load of residents from the Hawthorne at Leesburg mobile home cooperative showed up to object to being included within the area in which Leesburg would, under the agreement, be able to annex property, and the County Commission backed away from the document. Further efforts to move that process forward have been fruitless. It is important that your agency be aware of Leesburg's past and continued willingness to enter into a joint planning agreement, and that the lack of such an agreement is the result of repeated rejection of it by the County Commission.

Continuing with Policy 1.7.2, it contains a statement to the effect that if a city annexes property and seeks to change its own future land use map in a way which conflicts with the rural density imposed on property by the County, the County retains the right to object. In one sense this is only do - nothing language since the County would always have the right to object, to the point of filing litigation if it felt that were justified, whether or not the comprehensive plan contained this statement. The language adds nothing to the County's existing powers in that regard. However, the mere fact this language is proposed evidences an intent on the part of the County to try and impose its views on how cities regulate the use of land within their borders. This is somewhat similar to events now transpiring in Volusia, Seminole and other counties, but the important difference is that those are charter counties. Florida law allows charter counties a great deal more leeway in how they impose their will on cities, but Lake is not a charter county. Because the proposed statement has no real legal effect, Leesburg is not demanding that it be removed, but admonishes that care should be taken not to overstep the ability of a non - charter county to intrude into the sovereign affairs of its municipalities.

Another concern has to do with the Sunnyside area. Some time ago, partly at the urging of Lake County, Leesburg conducted an exhaustive examination of that area and what would be the best way to regulate land use there, and adopted the Sunnyside Study as a guideline for development of that area. Since adopting the study, Leesburg has applied it to each development proposed there within its jurisdiction. At the time Leesburg was told the County would also adopt the same planning criteria for Sunnyside as part of the update of its comprehensive plan, but the densities proposed for Sunnyside in the plan are higher in some places than the Sunnyside Study would permit. This is important because part of the Sunnyside Study criteria are based on what the County would allow, so that the County density in effect becomes the City density after annexation.

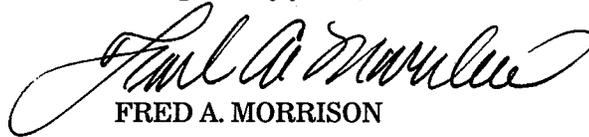
As an example, in some areas Leesburg would, based on the study, limit density to three per acre, but the County proposal would allow four per acre. In some places the City would limit density to eight per acre, the County would allow twelve units per acre. The residents of Sunnyside are extremely sensitive to any development at high densities and were the driving force behind the study. Leesburg would like to see the wishes of those residents, as embodied in the study and as observed by Leesburg since adoption of the study, be put into the County plan as well. Setting higher densities for those areas in the County plan could well torpedo the efforts of Leesburg to date to limit densities in this sensitive area with very limited access.

Last but not least, there are provisions in the proposed plan which would mandate connection to municipal water and wastewater systems by County residents under certain conditions. There are several potential problems with the way this has been done. It removes from the cities the ability to control and regulate the capacity available on their systems, by mandating connection. It also intrudes on the sovereign power of the cities to determine who connects to their systems and under what circumstances. For example, Leesburg requires anyone connecting to its systems who is contiguous to the city limits to annex, and requires those not contiguous to sign an agreement to annex when they become contiguous. Mandating connection could also impose significant, perhaps unintended, costs on residents in the way of impact fees, connection fees, and other associated expenses. These costs would be no different than the costs imposed on anyone

connecting to municipal systems, the difference is that the residents would be forced to connect even if they have existing, fully functional wells or septic tanks. Leesburg supports inclusion of a provision similar to this in the County's plan but believes the current language is not well thought out and requires significant modification to be fair to all concerned and workable for the City, the County and the affected property owners.

As noted at the outset, Leesburg appreciates the efforts of the County to update its comprehensive plan as well as all the work which has gone into those efforts to date. However, some of the results appear counterproductive, not only to the particular interests of Leesburg, but to the principles of sound planning. Leesburg respectfully requests that your agency incorporate the changes noted above before the proposed plan is passed along to the County Commission for transmittal to the Department of Community Affairs, and that this letter be made part of the official record of the proceedings leading to the eventual adoption of the County's updated comprehensive plan.

Respectfully yours,



FRED A. MORRISON

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