



Concerned Citizens of Tarpon Springs, Inc. Closing Argument

Jane Graham, Esq.
Florida Bar Board Certified Attorney in City, County, and Local Government Law
Attorney and Founder
Sunshine City Law
737 Main Street, Suite 100
Safety Harbor, FL 34695
(727) 291-9526
jane@sunshinecitylaw.com
www.sunshinecitylaw.com



**EVIDENCE SHOWS
APPLICANT HAS FAILED
TO CARRY THEIR
BURDEN**

- ➔ **NUMEROUS INCONSISTENCIES WITH
COMPREHENSIVE PLAN**
- ➔ **FAILS TO MEET NECESSARY CRITERIA FOR
APPROVAL**
- ➔ **NOT SUPPORTED BY COMPETENT
SUBSTANTIAL EVIDENCE**

YOU MUST DENY

CRITERIA

§ 207.03 REZONING

§ 79.00 REVIEW CRITERIA FOR
PLANNED DEVELOPMENTS.

§ 83.00 WAIVERS.

§ 209.01 Standards for review
of conditional uses. (VOTED ON
Oct 26 already- should
reconsider)

REZONING: § 207.03

Standards for Review of Amendments

(A) Zoning Map Amendments. All requested amendments shall meet the following standards:

(1) The amendment is consistent with the goals, objectives and policies of the Tarpon Springs Comprehensive Plan.

(2) The available uses to which the property may be put are appropriate to the property in question and are **compatible with the existing and planned uses in the area**.

(3) The amendment shall provide for efficient and orderly development considering the impact upon growth patterns and the cost to the City to provide public facilities.

(4) The amendment will not adversely impact nor **exceed the capacity** or the fiscal ability of the City to provide available public facilities, including **transportation**, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities. Compliance with the adopted Levels of Service standards can be demonstrated if necessary.

§ 79.00 REVIEW CRITERIA FOR PLANNED DEVELOPMENTS.

- Planned Development Districts may hereafter be established by amendment to the Official Zoning Atlas provided they are found to satisfy the following criteria:
 - (A) Consistent with the Comprehensive Plan**

The Planned Development shall be found consistent with the goals, objectives, and policies of the Comprehensive Plan in effect at the time of the review.
 - (B) Physical Character of the Site**

Planned Development District sites shall be suitable in location, area, and character for the uses and structures proposed.
 - (C) Land Use Compatibility**

Planned Development Districts shall establish a gradual transition of intensities between varying land uses and protect against the potential for the development of incompatible land uses. Nonresidential uses shall be designed to protect residential areas from encroachment.
 - (D) Adequacy of Public Facilities**

Planned Development Districts shall be so located that the existing public facilities are maximized to serve the uses proposed.
 - (E) Relation to Major Transportation Facilities**

Planned Development Districts shall be located with respect to thoroughfare streets identified on the applicable Comprehensive Plan and mass transit facilities. The design shall not create excessive traffic on minor streets in residential neighborhoods outside the District.
 - (F) Environmental Design**

The Planned Development shall be designed to take advantage of the natural features and topography of the site, preserve natural resources, and protect archeological or historic sites.

§ 83.00 WAIVERS.

(B) No waiver or modification may be granted unless one or more of the following circumstances exist:

(1) Superior Alternatives

Where the development will provide an alternative which will achieve the purposes of the requirement through clearly superior design, efficiency, or performance.

(2) Protection of Significant Features

Where the waiver or modification is necessary to preserve or enhance significant existing environmental or cultural features, such as trees, scenic areas, historic sites or public facilities, related to the development site.

§ 209.01 Standards for review of conditional uses. (YOU APPROVED THIS ALREADY ON OCT 26- SHOULD RECONSIDER)

No conditional use other than a conditional use granted in connection with a nonconforming lot application as herein provided shall be recommended for approval or receive a final action of approval unless a positive finding, based upon substantial competent evidence presented at a public hearing held by the Board is made on each of the following standards:

- (A) Conformance with the requirements of this Code.
- (B) The use to which the property may be put is appropriate to the property in question and is compatible with existing and planned uses in the area.
- (C) **The conditional use is consistent with the goals, objectives, and policies of all Elements of the City Comprehensive Plan.**
- (D) The conditional use will not result in significant adverse impacts to the environment or historical resources.
- (E) The conditional use will not adversely affect adjoining property values.
- (F) The conditional use will not adversely impact nor exceed the capacity or the fiscal ability of the City to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection and emergency services, police protection, library service, and other similar public facilities. Compliance with the adopted Levels of Service standards can be demonstrated if necessary.
- (G) The conditional use shall provide for efficient and orderly development considering the impact upon growth patterns and the cost to the City to provide public facilities.

What is a Comprehensive Plan?

How do I know if this is consistent?

- **A comprehensive plan is** a statutorily mandated plan to control and direct the use and development of property—**like a constitution governing all future development decisions.** *Machado v. Musgrove*, 519 So. 2d 629, 631–32 (Fla. 3d DCA 1987).
- The burden of proof is on the one seeking a change to show by competent and substantial evidence that the proposed development conforms **strictly** to the comprehensive plan and its elements.
- The traditional and non-deferential standard of strict judicial scrutiny applies...the antithesis of a deferential review.
- Compliance of a development order determined by reference to “the objectives, policies, land uses, and densities and intensities in the comprehensive plan,” itself, **not by reference to ordinances purportedly adopted to implement the plan.** *Buck Lake All., Inc. v. Bd. of Cty. Comm’rs of Leon Cty.*, 765 So. 2d 124, 127 (Fla. 1st DCA 2000).
- Plan Administration Element: “Consistency shall mean to further the intent of the Comprehensive Plan”

Consistency with a Comprehensive Plan is :

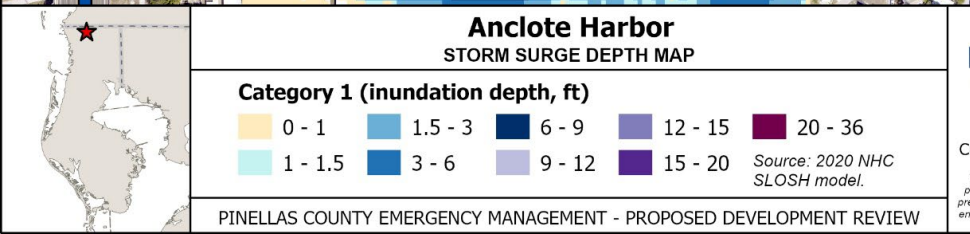
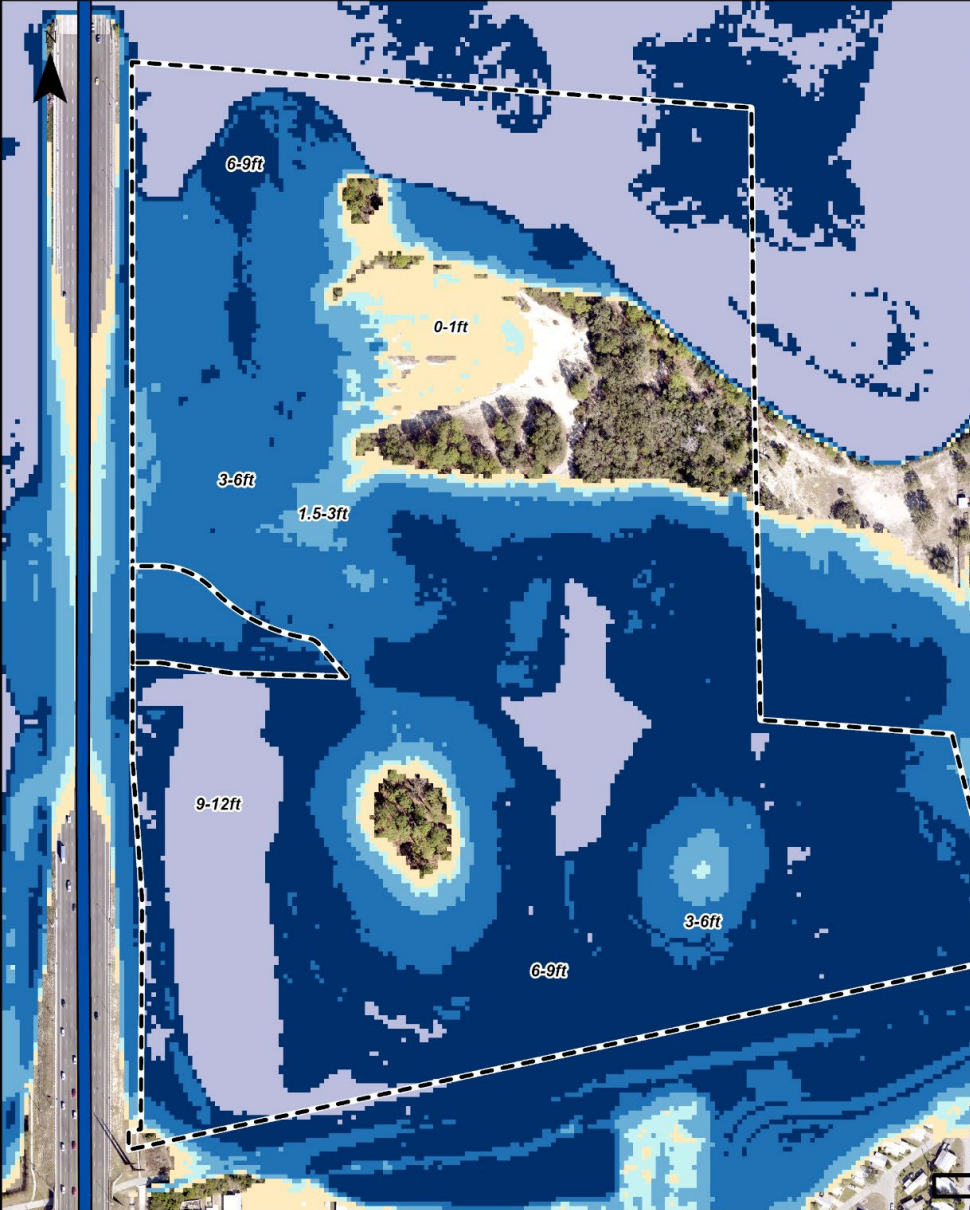
- **Not a discretionary matter.** *Pinecrest Lakes, Inc. v. Shidel*, 795 So. 2d 191, 198 (Fla. 4th DC 2001)
- **Not a ‘vest-pocket tool’ for making individual zoning changes based on political vagary.** Instead, it is a broad statement of a legislative objective to protect human, environmental, social, and economic resources; and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state. *Machado v. Musgrove*, 519 So. 2d 629, 635 (Fla. 3d DCA 1987).



Many Inconsistencies

Concerned Citizen's land use planner Richard Gehring, an expert with over 46 years of experience in Tampa Bay, found the Anclote Harbors project had over 150 inconsistencies with the Comprehensive Plan, which the Applicant failed to rebut.





Example 1

Protect human life and limit public expenditures in areas subject to destruction by natural disasters and sea level rise. (Goal 3, Coastal Element)

Pinellas County Emergency Management raised red flags about developing on this specific site- a highly flood prone area that would experience storm surge even in a tropical storm, subject to flooding from king tides. These impacts will be further aggravated by future sea level rise.

Pinellas Emergency Management evaluated plan in October 21, 2021 letter:

On Public safety concerns:

The SLOSH model indicates that the parcel will be impacted by storm surge associated with Tropical Storm or Hurricane. (Attachments 4 - 9). This inundation can block access in and out of the development for both residents and first responders. Community amenities and infrastructure located at or just above ground level such as AC units, electrical systems, elevators, pools, vehicles, garages, and storage units would be vulnerable to storm surge inundation and damage.

The current SLOSH model does not factor in sea level rise, so any future storm impacts will likely be exacerbated.

Nine out of ten hurricane-related deaths are attributable to the effects of storm surge

On Public expenditures from development:

“development on the property would increase storm shelter demand by an additional 216 residents during all mandatory evacuation orders. This also further increases the level E evacuation shelter deficit. The impacts of 216 additional shelterees over 3 days equates to:

- a. 4,320 square feet of shelter space (State standard 20 sq ft per person)
- b. 2 additional shelter staff (1 staff person per 150 residents)
- c. 1,944 additional meals (3 meals per day times 3 days)
- d. 648 gallons of potable water (1 gallon water per person per day)
- e. 3,110 gallons water for toilet use (1.6 gallons per flush, 3 times day, times 216, times 3 days)
- f. Parking spaces for over 108 vehicles (216 shelterees divided by 2)

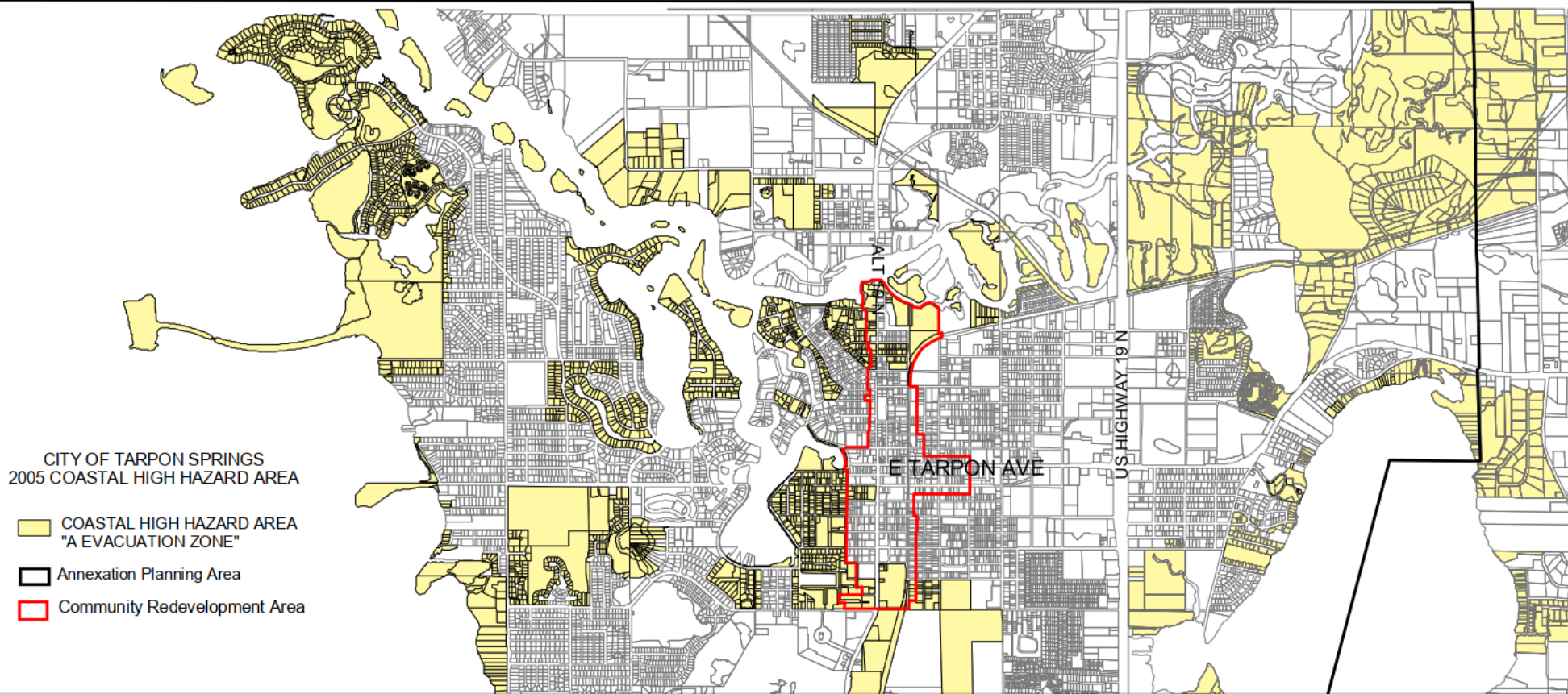


Example 2

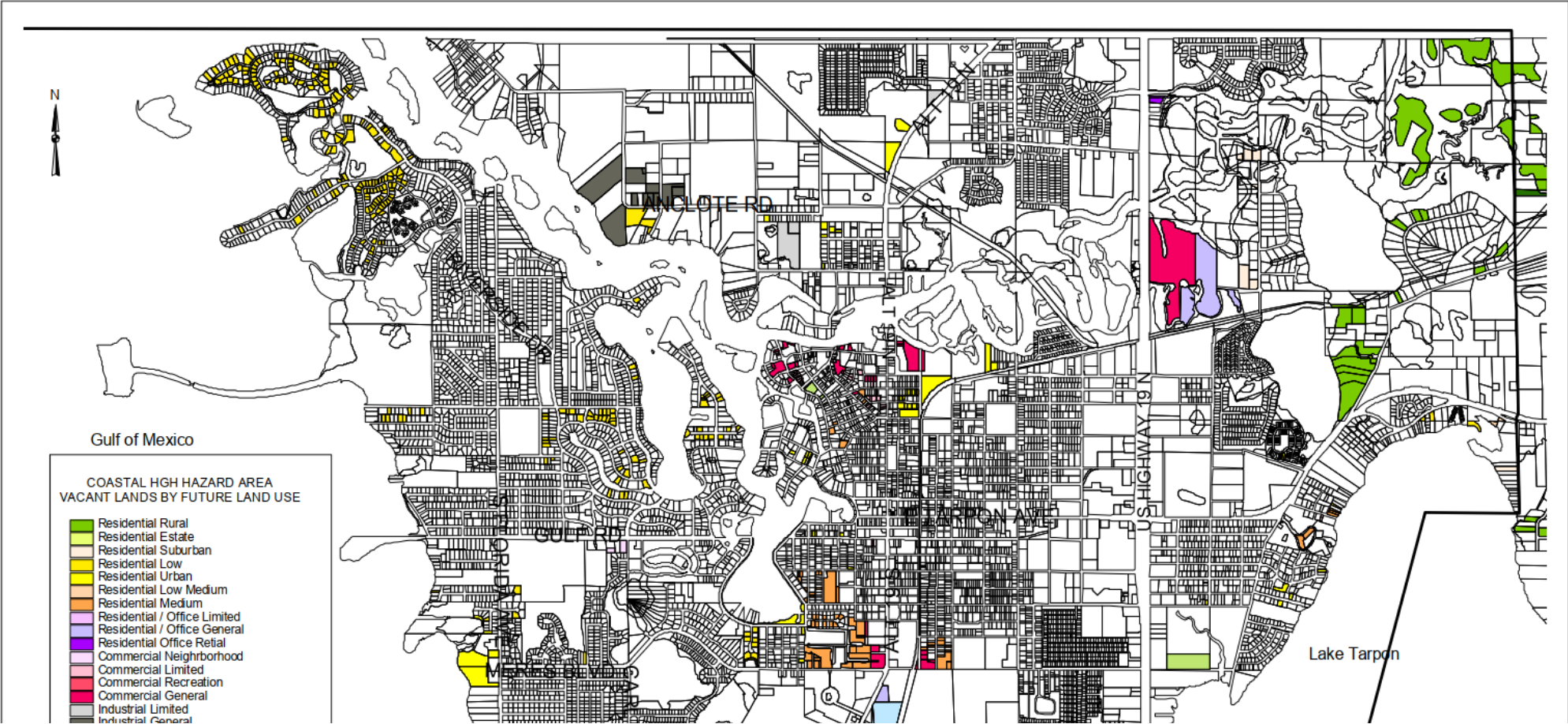
Direct population concentrations away from known or predicted coastal high hazard areas. (OBJECTIVE 3.4, Coastal Element)

This project in a coastal high hazard area will draw in over 1000 residents. This is over 40% more people than Icaria, the largest multi-family development currently approved in Tarpon Springs. Also, the site is one of only a few vacant parcels (and largest) in the coastal high hazard area left.

COASTAL HIGH HAZARD AREA



COASTAL HIGH HAZARD AREA, VACANT LANDS



Residential projects under construction or in the pipeline					
Development Name	Development Type	units	Projected Population Ave Houshold size	Projected population Average Family size	Acres
Icaria	Apartments	236	590	741	10.9
River Bend	Single Family	54	135	170	11.2
Anclore Harbor	Apartments	404	1010	1269	72.62
Eagle Creek	single Family	50	125	157	15.3
North Lake Estates	Single Family	44	110	138	43.54
Total		788	1970	2474	153.56
2019 Avg Household size for Tarpon Springs 2.5 persons					
2019 Avg Family size is 3.14 persons					

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Example 3

Restrict public investments such as roads, water, and sewer infrastructure, which would subsidize new private development in the Coastal High Hazard Area. (POLICY 3.1.2, Coastal Element)

City Planner admitted “Long term maintenance will become the responsibility of the City.”

- Non sequitur statement: “Important to note that a large portion of the City is in the Coastal High Hazard area where utilities and infrastructure are present and must be maintained by the City.”
- Policy talks about “new private development,” not existing development



Example 4

“Require large scale development / redevelopment (40 acres or more) to adhere to mixed use and livable community objectives and policies set out in Goal 5 of this element.” Policy 1.1.11, Future Land Use Element

- Planning Director stated, “...not a mixed-use project”
- review of the requirements of mixed use and design criteria in Goal 5 ignored



Example 5

The City shall discourage the development of low-density residential projects which will increase urban sprawl and dependency on the personal automobile (Policy 1.5.3, Transportation Element)

- This project adds 2,200 daily trips in personal automobiles. Developer does nothing quantifiable to reduce urban sprawl.

To provide a safe traveling environment for automobiles, bicycles and pedestrians (Objective 1.2, Transportation Element)

- Concerned Citizens and numerous members of the public testified to their specific safety concerns relating to this project from car crashes, pedestrian safety and access, and aggravating traffic

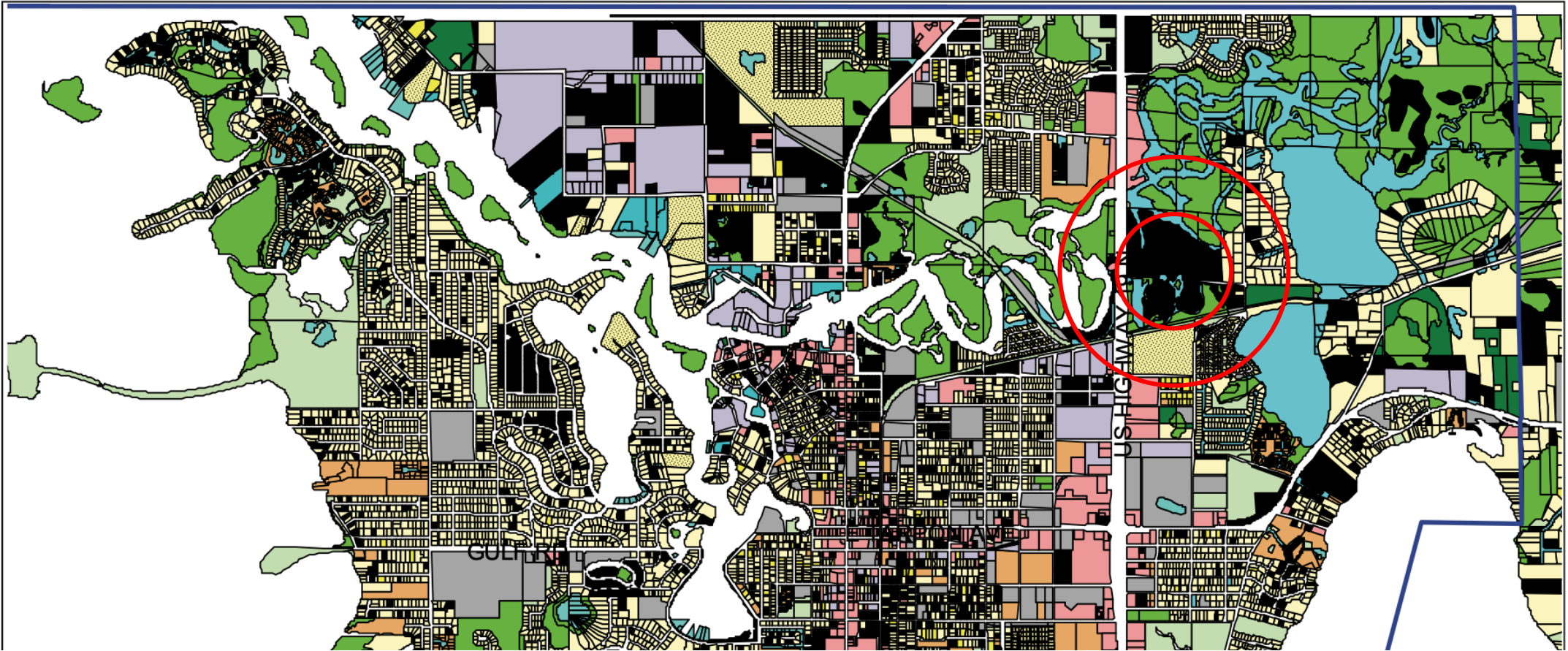
PLANNING AND ZONING BOARD DENIED 6-1 LARGELY BASED ON TRAFFIC SAFETY CONCERNS. Remember, a recommendation from the Planning and Zoning Board, the City's Local Planning Agency, is competent substantial evidence.

Other Criteria Application Fails to meet:

Wrong Use in Wrong Place/ Incompatible

- Rezoning: (2) The available uses to which the property may be put are appropriate to the property in question and are **compatible with the existing and planned uses in the area.**
- Planned Development Review: (b) **Physical Character of the Site:** Planned Development District sites shall be suitable in location, area, and character for the uses and structures proposed.
- Waiver: Superior alternative/protection of significant environmental feature

EXISTING LAND USE MAP



Anclore River Watershed Mgmt. Study

February 2021



5.2 Natural System Enhancement East of US Highway 19 North

The saltmarsh and mangrove dominant systems, along with pockets of uplands, in the area east of US Highway 19 provide key habitat support and buffer along the Anclore River (including bald eagle nest PI041), and are also uniquely positioned to showcase a natural vista to passing drivers, pedestrians and cyclists along the otherwise intensely commercial-developed US 19 corridor, seen from US 19 in Figure 5.2. **For these reasons, the approximately 730-acres bordering the east side of US 19 (Figure 5.3) should be carefully evaluated to more fully assess the existing ecological and water quality characteristics, determine potential threats of further degradation, and identify opportunities for protection and improvement of ecosystem values along with general natural systems enhancements.**

Applicant has not met their burden to provide Competent Substantial Evidence

- Traffic safety: Gap Analysis: a study of ONE/ traffic management plan lacks quantifiable measures or results
- Environmental Impacts: did not address larger impacts to Anclote Watershed
- Failed to address Pinellas County Emergency Management documents and instead created in-house maps on sea level rise, ignoring storm surge

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