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September 23, 2019

The Honorable Ron DeSantis
Governor of the State of Florida
400 S. Monroe Street
Tallahassee, Florida, 32399

IN RE:
A RULE TO ESTABLISH
THE HARMONY RANCH
COMMUNITY DEVELOPMENT DISTRICT

Dear Governor and Commission Members,

The Guardians of Martin County, Inc., a 501(c)3 Florida Corporation Not for Profit, wishes to comment on the Petition to Establish the Harmony Ranch Community Development District filed by the Hobe Sound Ranch, Ltd. and requests that this written comment be made part of the Record of your proceedings. For ease of reference I have incorporated portions of Chapter 190, Florida Statutes.

The Legislature has recognized a need for a (CDD) Community Development District where there is a financing need for delivery of basic community development services and capital infrastructure.

190.002 Legislative findings, policies, and intent.—

(1) The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation, and duration of independent districts to manage and finance basic community development services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.

♦ PROTECTING THE MARTIN COUNTY DIFFERENCE SINCE 2003 ♦

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REGISTRATION# CH30115

The Legislature makes it clear that a CDD does not have any zoning or permitting power.

(c) That the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under chapter 380 and that the district so established does not have any zoning or permitting powers governing development.

(3) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for community development. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this chapter not have or exercise any zoning or development permitting power, that the establishment of the independent community development district as provided in this act not be a development order within the meaning of chapter 380, and that all applicable planning and permitting laws, rules, regulations, and policies control the development of the land to be serviced by the district. It is further the purpose and intent of the Legislature that no debt or obligation of a district constitute a burden on any local general-purpose government without its consent.

190.004 Preemption; sole authority.—

(3) The establishment of an independent community development district as provided in this act is not a development order within the meaning of chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Community Planning Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

The hearing before the Board of County Commissioners and Hearing Officer was a fact-finding hearing. IT WAS THEREFORE EVIDENTIARY. The petition itself is not evidence and it is the burden of the Petitioner to bring forth evidence sufficient facts to allow the Commission to make these findings. The 6 factors that the Commission has to consider are set forth below. Each of the 6 must be consider separately and the Commission must make a separate finding as to each one.

190.005 Establishment of district.

1) The exclusive and uniform method for the establishment of a community development district with a size of 2,500 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(c) Such county and each such municipality required by law to receive a petition may conduct a public hearing to consider the relationship of the petition to the factors specified in paragraph (e)

NOTE ..requirements of paragraph (e)

.....and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special-district government.

The Guardians believe that due process has been served by allowing the Petitioner to put on all evidence it wishes in support of its Petition before the Martin County Commissioners and the Hearing Officer. However, the 6 Factors depend on sufficient facts and evidence previously submitted in prior Public Hearings involving this property. Therefore, the Guardians request and offer into evidence in your proceedings, all of the previous records, transcripts, and all evidence of all previous Public Hearings relating to this property. We further request that all these records be made part of the record of the Florida Land and Water Adjudicatory Commission as part of your review and included in your record.

By making this request and offer of evidence, the Guardians do not support the petition, as we have seen the evidence of the Petitioner. The Petitioner has failed to satisfy and prove the 6 required Factors. The Florida Land and Water Adjudicatory Commission must, in its determination, answer the following 6 questions

190.005 1(c) continued.

(e) *The Florida Land and Water Adjudicatory Commission shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local general-purpose governments as provided in paragraph (c), and the following factors and make a determination to grant or deny a petition for the establishment of a community development district:*

1. Whether all statements contained within the petition have been found to be true and correct.

2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the district is amenable to separate special-district government.

The Guardians recognize that The Florida Land and Water Adjudicatory Commission can only adopt a Rule containing 3 findings. Those findings are set forth below. It goes without saying, that only the relief asked for in the Petition can be approved. That relief requested by the Petitioner is the establishment of a CDD for roadways, drainage and landscaping. There is no other matter or relief requested and therefore no other relief can be granted.

(f) The Florida Land and Water Adjudicatory Commission shall not adopt any rule which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041, except as provided in s. 190.012. A rule establishing a community development district shall only contain the following:

1. A metes and bounds description of the external boundaries of the district and any real property within the external boundaries of the district which is to be excluded.

2. The names of five persons designated to be the initial members of the board of supervisors.

3. The name of the district.

The Guardians observe that the statute allows CDDs special powers, however the CDD is subject to, and remains subject to, the County’s regulatory and permitting authority. The CDD is also subject to all applicable governmental bodies and agencies.

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

The Guardians point out that the following statement in Exhibit 3 to the Petition is in need of clarification.

“The property represents a portion of the real property to be included In the Proposed CDD.”

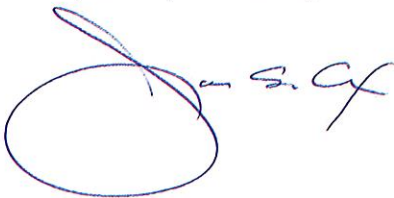
What other property is going to be included? There can be no other property.

Wherefore, The Guardians would request that the Petition be denied as being legally insufficient on its face and on the evidence presented.

However, if approved, any approval resolution must contain a specific confirmation that:

1. Only the relief requested in the Petition is approved.
2. The approval has not, does not, and will not supersede any regulatory powers of Martin County relative to the property including without limitation, comprehensive land use and zoning.
3. The Approval does not amend or modify any County Regulations or ordinances applicable to this property
4. The approval is exclusively for the financing needs of Roadway, Drainage and Landscaping, as requested in the Petition.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Jack Schramm Cox", is written over a large, hand-drawn blue oval.

Jack Schramm Cox, General Counsel
The Guardians of Martin County, Inc.