

# McCabe | Ronsman

ATTORNEYS AT LAW

January 15, 2021

**Via Regular U.S. Mail & Certified  
Mail, Return Receipt Requested &  
Email in PDF**

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**Re: Memorandum in Opposition to Application for Rezoning**  
**Application: CPA20-008**  
**Applicant: FKP, Ltd.**

To Whom It May Concern:

Our firm represents Pinewood Point Homeowners Association, Inc. ("Association") as legal counsel. Our office has been made aware of the hearing scheduled on January 19, 2021, before the Nassau County Planning and Zoning Board ("Board") to consider CPA20-008, a proposed amendment to the Future Land Use Map of the Comprehensive Plan to change the classification of 22.73 acres located on the east side of US Hwy 17 between SR200 and Green Acres Apts. Access ("Subject Parcel"), from Medium Density Residential ("MDR") and Commercial ("COM") to High Density Residential ("HDR"). Please accept this memorandum outlining the reasons for which the Association requests the above-referenced application be **denied**. Thank you in advance for your attention.

110 Solana Road, Suite 102, Ponte Vedra Beach, FL 32082  
Phone: (904) 396-0090  
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## **Background & Standing**

The Association is a homeowners' association comprised of approximately 83 lots and is responsible for operating a residential subdivision known as Pinewood Pointe, part of which abuts Subject Parcel. The portion of the Association which abuts Subject Parcel is more clearly identified on the plat for Hideaway Phase III, recorded at Plat Book 7, Pages 270-274, of the Public Records of Nassau County, Florida. The roadways located thereon, including that portion of Pinewood Drive abutting the Subject Parcel, are a means of ingress and egress for the Association members, their family, tenants, guests, licensees, etc.

## **Applicable Legal Standard**

“The supreme court [of Florida] has clarified the analysis to be applied by a board in ruling on a landowner’s petition to rezone property. *See Bd. of County Comm’rs of Brevard County v. Snyder*, 627 So. 2d 469 (Fla. 1993). It is the landowner’s initial burden to prove that the petition is consistent with the comprehensive plan and that it complies with the applicable zoning ordinance’s procedural requirements. *Id.* at 476. Then the burden shifts to the government to show that there is a legitimate public purpose behind maintaining the existing zoning classification. *Id.* If the government meets this burden, the board should deny the petition.” *Sarasota County v. BDR Investments, L.L.C.*, 867 So. 2d 605, 607 (Fla. 2d DCA 2004), citing *Bd. of County Comm’rs of Brevard County v. Snyder*, 627 So.2d 469 (Fla.1993). In addition, Section 163.3231, Florida Statutes, provides “[a] development agreement and authorized development shall be consistent with the local government’s comprehensive plan and land development regulations.”

This standard is memorialized by Section 5.02(c) of the Nassau County Land Development Code, which states that all applications for zoning classification changes shall be reviewed for consistency with the Nassau County Comprehensive Plan and the merits of the request based upon the goals, objectives and policies of the adopted comprehensive plan. This standard is further memorialized in the Nassau County 2030 Comprehensive Plan Future Land Use Element Goals, Objectives and Policies (“Policy FL.01.04”).

## **CPA20-008 Should Not be Approved Because it Fails to Comply and is Inconsistent with the Nassau County Comprehensive Plan**

### **1. CPA20-008 exceeds the maximum gross densities permitted for HDR.**

The proposed PUD submitted by Applicant provides for a 270 multi-family residential unit apartment complex, which includes designated affordable housing units, associated open space and recreational amenities. FL.01.04 sets forth the minimum and maximum gross densities permitted in Residential land use categories. Specifically, FL.01.04 states that HDR shall be greater than 3 dwellings units per gross acre up to 10 dwelling units per gross acre. CPA20-008 proposes a density of 11.88 dwelling units per gross acre (270 units divided by 22.73 acres). As such, CPA20-008 should be denied for exceeding the maximum gross densities permitted for HDR.

**2. The Applicant has failed to demonstrate adequate infrastructure to accommodate the proposed amendment per FL.01.04.**

The Staff Report incorporates comments from the traffic study. These comments state that “at build-out, a projected 550 vehicles per day will utilize the other project entrance to SR 200 eastbound via Pinewood Drive, a street that also serves the Hideaway subdivision as a secondary/north entrance.” This is a critical issue which directly affects the Association and its members as this road is used for regular ingress and egress to the community. The proposed development will substantially alter the use of this portion of Pinewood Drive, and as it currently stands the Association’s members will likely bear increased liability associated with increased vehicular and pedestrian traffic. Upon review of the Applicant’s proposed site plan, it does not provide acceleration or deceleration lanes or sidewalks at the intersection with Pinewood Drive. Further, increased traffic will also disproportionately increase the cost in time and money to maintain the roads.

**3. CPA2-008 Fails to Encourage a Functional Mix of Uses per FL.01.04**

The Staff Report states that “[t]his location provides excellent accessibility to nearby jobs, shopping, and recreation for essential workers and their families. The addition of apartments diversifies the land use mix which is now mostly commercial and industrial. Such a central location provides for reduced vehicle trip lengths and less traffic impacts.” However, the Association vehemently disagrees with this assessment because other multi-family developments have already been developed in the area. The Subject Parcel is adjacent to two other multi-family developments, Yulee Villas and Green Acres Apartments. To allow additional multi-family developments would deter from the existing zoning that was established (MDR and COM), and would also result in decreased property values in adjacent neighborhoods such as Pinewood Pointe.

**4. Permitting HDR for the Subject Parcel would set a precedent for future developers to increase density based on similar arguments.**

The Future Land Use Map of the Comprehensive Plan Comprehensive Plan sets forth a density for the Subject Parcel to construct additional single-family detached dwellings as well as other commercial uses. If the Board were to approve the proposed HDR for the Subject Parcel, it would establish a precedent for other developers to argue for additional density under the same arguments.

**Conclusion**

Considering the foregoing, CPA20-008 does not comply with the Comprehensive Plan and therefore it should be denied. Applicant’s proposed density exceeds the maximum density allows for HDR. Applicant’s proposed location for 270 multi-family residential units is incompatible with the surrounding uses, which includes commercial areas and single-family detached residential neighborhoods. Even if Applicant could demonstrate compliance, the County would have several legitimate public reasons for denying CPA20-008. Permitting additional density where it was previously not allocated would open the door to other developers arguing for additional density for similarly-zoned parcels.

The Association believes the existing zoning designation should be preserved to allow for the potential development of stores to serve the surrounding neighborhoods and additional single-family detached residential neighborhoods. Maintaining the existing zoning would also preserve the density allocation previously established when the Future Land Use Map of the Comprehensive Plan was approved.

On behalf of the Association, thank you for considering the Association's comments and request for denying approval of CPA20-008. Please include this correspondence as a part of the administrative record of the proceedings.

Sincerely,  
McCABE & RONSMAN



Chase Mills, Esq.

Copies to:  
Board of Directors  
Pinewood Pointe Homeowners Association, Inc.