

Siesta Promenade Litigation Update - August 1, 2019

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We filed a **Reply Brief**¹ with the Court yesterday on July 31, 2019 replying in detail to the Response Briefs filed by Sarasota County and Benderson Development filed on July 1, 2019. We also filed a **Motion for Oral Argument**² with the court to address any remaining questions that the court may have after reading the briefs. If the court grants the oral argument, we will expect to have oral argument sometime in the fall of 2019.

Our Reply focuses on the County's failure to properly consider all of the area impacts of the the Siesta Promenade Project. The County Response stated the proposed development is just like any "other *strip center development* along US 41" and was treated that way. Our Reply points out that this vacant NW corner is not just like any *other strip center development along US 41* and if so developed would have severe negative impacts particularly on Siesta Key that were not adequately studied. The proposed development would add a tremendous amount of new development³ to the currently vacant corner of this already dangerous, failing intersection. The US 41 Stickney Point Road intersection, which is absolutely critical to Siesta Key access, already has more traffic than it can safely handle. It is currently at a PM peak Level of Service "F" which represents near "gridlock" conditions.

In fact, regarding development of this corner, FDOT⁴ has specifically opined that "we believe that access types, safety concerns, and operational limitations of this intersection should be given special consideration when determining or planning the future land use in this area." The County Response admitted that the Board must evaluate projects "for safety, adequate ingress and egress, compatibility, operational issues at impacted intersections and circulation." Benderson's local traffic analysis made it clear that their project would not be feasible without a New Traffic Light on Stickney Point (between the Siesta Key Bridge and US 41), and the Board agreed and made its Project approval conditional on FDOT permitting this new Light.

However, the New Traffic Light Requirement has consequences on all of Siesta Key's critically related roadways, which have not been properly studied. Siesta Key traffic on Stickney Point Road is already a very serious problem, so a new traffic light would only make it worse. FDOT future involvement in this analysis would need to be extensive.

The official legal process to properly study and evaluate the impacts of the proposed development is contained in a Flowchart in the relevant Critical Area Planning Ordinance. The Reply documents that process simply was not followed. The process requires the Impact Area Boundaries be set properly at the outset before the Transportation Impact Analysis is begun and completed. This an important and obvious essential requirement. The total failure to first approve the proper Impact Areas provides a Case Study of how badly things can be blundered when the logical, legal process is simply ignored.

Our Reply also points out that Siesta Promenade requested illegal added density_(from 9 units to up to 25 units per acre), added height (from 25' to 80') and additional uses (i.e., stand-alone multi-family units). All of this would require a special exception application under the Zoning Code, yet no Special Exceptions were applied for, granted or approved for the increased density, height and uses.

Our Reply asks the court to reverse or remand development approvals for additional hearings on the application of this site-specific Critical Area Plan process, the rezoning, and the additional required special exceptions.

¹ <https://drive.google.com/file/d/1BfonursPTJST9v9BtQFtLQYWqUQIHhi1/view?usp=sharing>

² <https://drive.google.com/file/d/1PqYE4QaSZ0ejOuxvybtArFIOzksFSv2E/view?usp=sharing>

³ 479 residential units, 65 hotel suites (2 rooms and a kitchen, i.e., 130 rooms), and 140,000 sf of non-residential space

⁴ <https://drive.google.com/file/d/1gXd7JKYTKzDa6jL9uy4OdPb-v9BHIVUu/view?usp=sharing>