From: Commissioner Burt L. Saunders
To: MICHAEL.R.RAMSEY@EMBARQMAIL.COM;
Subject: 12 MONTH MORATORIUM
Date: Tuesday, January 2, 2024 12:54:33 PM

Burt Saunders
District 3 Commissioner
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On December 12 at the regular meeting of the Collier County Commission, I proposed that the County implement a one year moratorium on all new applications for site specific comprehensive land use plan amendments on all properties with direct access to Immokalee Road from I-75 eastward to Oil Well Road and on Vanderbilt Beach Road from I-75 eastward to its current end. The purpose of the moratorium is to stop negatively impacting these two roadways with additional traffic until our County transportation staff can implement traffic improvements and basically keep a very bad situation from getting worse until those improvements can be implemented.

The County Commission voted to proceed to a public hearing beginning at 5:00 PM on January 23, 2024, to consider steps that the County Commission can take immediately to improve traffic conditions on these two roads.

This will be a very important meeting for all that are impacted by the traffic on these two roadways. I will be asking the County Commission to consider the moratorium, but also to allocate immediate funding to roadway and intersection improvements on Immokalee Road. The County has resources for these projects if the County Commission is willing to prioritize Immokalee Road improvements as a top priority. Hearing from constituents on this will help generate support from the other commissioners. Below is the contact information if you are willing to send an email on this. Attendance at the Commission meeting on January 23 at 5:00 PM will also be helpful to let the Commissioners know how important this is.

Contact Information for the other 4 Commissioners:

Rick LoCastro, Chairman
Commissioner, District 1
Rick.LoCastro@CollierCountyFL.gov

Chris Hall
Commissioner, District 2
Chris.Hall@colliercountyfl.gov

Dan Kowal
Commissioner, District 4
Dan.Kowal@colliercountyfl.gov

William L. McDaniel**, Jr., District 5 Commissioner**
Bill.McDaniel@colliercountyfl.gov

EXECUTIVE SUMMARY

Recommendation to direct the County Attorney to advertise and bring back to the Board an ordinance that will implement a twelve-month moratorium on privately-initiated Growth Management Plan amendment applications for properties located adjacent to (1) Immokalee Road from I-75 east to Oil Well Road, and (2) Vanderbilt Beach Road from I-75 east to its end, while Growth Management Plan amendments are vetted with the public and advisory boards.

OBJECTIVE: To direct the County Attorney to advertise and bring back to the Board an ordinance that will implement a twelve-month moratorium on privately-initiated Growth Management Plan amendment applications for properties located adjacent to (1) Immokalee Road from I-75 east to Oil Well Road, and (2) Vanderbilt Beach Road from I-75 east to its end, while Growth Management Plan amendments are vetted with the public and advisory boards.

CONSIDERATION: For several years, the County has heard privately-initiated rezoning petitions with companion Growth Management Plan amendments to increase density and intensity beyond what is currently allowed in the Growth Management Plan. In 2022, there were 7 such petitions. In 2023, there have been 9 petitions. By adopting case-by-case Growth Management Plan amendments instead of following the County's Growth Management Plan, the County is compromising its ability to plan for growth, with transportation being at the forefront of this issue.

Although the use of Growth Management Plan Amendments to avoid the requirements of the Growth Management Plan is a countywide issue, I am particularly concerned about future increased traffic on Immokalee Road and Vanderbilt Beach Road.

If the will of the Board is to increase density along these corridors for affordable housing, amendments to the Growth Management Plan should facilitate this.

If the moratorium is enacted, property owners will still be able to develop their property under the existing Growth Management Plan.

FISCAL IMPACT: There is no fiscal impact associated with this action.

GROWTH MANAGEMENT IMPACT: The County can strengthen its role in managing future development by following its current Growth Management Plan until the County initiates changes to its Growth Management Plan.

LEGAL CONSIDERATIONS: The Second District Court of Appeals adopted the "pending ordinance doctrine" in the case of Smith v. City of Clearwater, 383 So.2d 681 (Fla. 2d DCA 1980), rev. den. 403 So.2d 407. The court in **Smith, supra** at 689, stated that an applicant is entitled to a permit under existing regulations only if the proposed regulation that would preclude the intended use is not "pending" when application is made. A proposed governmental action is deemed "pending" if there are active and documented efforts by those authorized to develop and prepare the proposed regulatory change, and the local governing board or planning board is aware of these efforts. **Smith, supra,** at 689. In other words, upon approval of this item, staff will no longer accept applications for new privately-initiated Growth Management Plan amendments for the areas on both sides of Immokalee Road from CR 951 to the I-75 east and on property on both sides of Vanderbilt Beach Road from CR 951 to the I-75 east, until the staff-directed Growth Management Plan amendments are heard by the Board.

With that said, this item is approved as to form and legality, and requires majority vote for approval. Please note, however, that an affirmative vote of four is needed for the potential future Growth Management Plan amendment.

RECOMMENDATION: To direct the County Attorney to advertise and bring back to the Board an ordinance that will implement a twelve-month moratorium on privately-initiated Growth Management Plan amendment applications for properties located adjacent to (1) Immokalee Road from I-75 east to Oil Well Road, and (2) Vanderbilt Beach Road from I-75 east to its end, while Growth Management Plan amendments are vetted with the public and advisory boards.

Prepared by: Burt L. Saunders, Commissioner District 3

ORDINANCE NO. 2024-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, DECLARING AND IMPLEMENTING A TEMPORARY MORATORIUM, TO SUNSET JANUARY 10, 2025, UNLESS FURTHER EXTENDED BY THE BOARD, ON PRIVATELY-INITIATED GROWTH MANAGEMENT PLAN AMENDMENT APPLICATIONS FOR PROPERTIES ADJACENT TO OR WHICH DIRECTLY ACCESS IMMOKALEE ROAD FROM I-75 EAST TO OIL WELL ROAD, AND VANDERBILT BEACH ROAD FROM I-75 EAST TO ITS END; PROVIDING FOR INTENT; PROVIDING FOR NON-INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at its December 12, 2023, Regular Meeting, the Board of County Commissioners (Board) raised concerns regarding the proliferation privately-initiated rezoning petitions with companion Growth Management Plan amendments to increase density and intensity beyond what is currently allowed in the Growth Management Plan; and

WHEREAS, the Board was particularly concerned with the impact of these Growth Management Plan amendments on Immokalee Road and Vanderbilt Beach Road, including but not limited to, growth management planning and transportation impacts; and

WHEREAS, the Board wishes to develop Growth Management Plan amendments along these corridors for affordable housing; and

WHEREAS, the Board wishes to implement a moratorium on privately-initiated Growth Management Plan amendment applications for properties located adjacent to Immokalee Road FROM I-75 east to Oil Well Road, and Vanderbilt Beach Road from I-75 east to its end; and

WHEREAS, property owners will still be able to develop their property under the existing Growth Management Plan; and

WHEREAS, the Board of County Commissioners finds that this Ordinance is in the best interests of the County and its residents and promotes the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:

SECTION ONE: Intent: The above recitals are hereby adopted as the legislative purpose of this Ordinance and as the Board's legislative findings.

SECTION TWO: Moratorium: The Board of County Commissioners hereby places a temporary moratorium (suspension) on all privately-initiated Growth Management Plan amendment applications for properties located adjacent to or which directly access Immokalee Road from I-75 east to Oil Well Road, and Vanderbilt Beach Road from I-75 east to its end. During the term of this moratorium, property owners will still be able to develop their property under the existing Growth Management Plan. Barring further action of the Board, the moratorium will expire January 10, 2025. The moratorium established by this Ordinance may be terminated early or extended by adoption of a resolution of the Board of County Commissioners.

SECTION THREE: NON-INCLUSION IN THE CODE OF LAWS AND ORDINANCES. Given the temporary nature and effect of this Ordinance, it is the intent of the Board of County Commissioners that this Ordinance not be codified.

SECTION FOUR: CONFLICT AND SEVERABILITY. In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FIVE: EFFECTIVE DATE. This Ordinance shall be effective January 10, 2024, the day the Board of County Commissioners adopted this moratorium.

PASSED AND DULY ADOPTED by a vote of a majority of the Board of County Commissioners of Collier County, Florida, this ____ day of _____, 2024.

ATTEST:
CRYSTAL K. KINZEL, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____

, Deputy Clerk

By: _____

CHRIS HALL, CHAIRMAN

Approved as to form and legality:

_____
Jeffrey A. Klatzkow, County Attorney

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