

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, Florida 33134
Telephone: (305) 777-1680
www.goldsteinenvlaw.com

Brett C. Brumund, Esq.
Direct Dial: (305) 640-5300
Email: bbrumund@goldsteinenvlaw.com

March 12, 2024

Via Email & Accela Citizen Access Portal

Mr. Mark Bennett, AICP, FRA-RA
Senior Planner
Polk County Office of Planning and Development
330 W. Church Street
Bartow, FL 33830

Re: Response to Development Review Committee Comments on Proposed Designation of the Property as a Green Reuse Area Pursuant to Florida's Brownfields Redevelopment Act; Project No. LDCU-2024-4

Dear Mr. Bennett:

On behalf of Lakeland Logistics Park Owner, LLC ("Applicant"), we are pleased to submit the following responses to comments received by email on March 8, 2024. These responses are regarding the Applicant's requested designation of property located at 8161-8247 State Road 33 North, Polk County, Florida 33809, identified by Parcel Numbers 242711-000000-041020, 242711-000000-041040, 242711-000000-041050, 242711-000000-042020, and portions of 242711-000000-041010 and 242711-000000-041030 (the "Subject Property"), as a Green Reuse Area pursuant to Fla. Stat., § 376.80(2)(c) of Florida's Brownfields Redevelopment Act:

1. *Green Swamp - The property is located within the Green Swamp Area of Critical State Concern. The site is also located within the Polk City Special Protection Area, as outlined in the Critical Area Resource Management Plan (Comprehensive Plan Section 2.132), and Chapter 5 (Green Swamp Area of Critical State Concern). Please provide a narrative, along with any applicable data, analysis, or support documentation, showing that designation of this property as a brownfield site is consistent with any applicable provisions of these regulations.*

The Subject Property is located both within the Green Swamp Area of Critical State Concern (“GSACSC”) and the Polk City Special Protection Area (“SPA”) for which development regulations are established under Polk County Comprehensive Plan § 2.132 and Polk County Land Development Code Chapter 5. Accordingly, the Applicant acknowledges development in this area is subject to additional regulation due to the presence of sensitive habitats and natural resources.

Florida’s Brownfields Redevelopment Program is an environmental cleanup and economic development program intended to encourage innocent property owners and prospective purchasers to acquire impacted sites, perform necessary site rehabilitation, and generate new economic activity. A brownfield area designation itself does not grant development approvals which can only be received through the traditional Polk County development review and approval processes. The actual development effect of a brownfield area designation approval notwithstanding, Florida’s Brownfields Redevelopment Act and the criteria for designation contained therein does consider the proposed redevelopment’s consistency with local land development regulations. Specifically, the third criterion for a brownfield area designation requested by a private party, found at Fla. Stat. § 376.80(2)(c)3., requires that an applicant’s proposed redevelopment “is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.” The Applicant’s proposed redevelopment with a distribution warehouse on property with Business-Park Center (“BPC”) 1 and BPC 2 land use categories is permitted within the Polk City SPA provided the facility does not engage in industrial activity and does not include petroleum pipelines, wholesale chemical operations, petroleum related industries or fuel dealers, dry cleaning plants, or chemical research operations. See Polk County, Fla., Comprehensive Plan § 2.132-C4; and see Polk County, Fla., Land Development Code, Table 5.2. Additional development regulations and conditions for development approvals established in the Comprehensive Plan and the Land Development Code will be considered when the Applicant applies for development permits but should not be considered factors or criteria for approval of a brownfield area designation at this time. Therefore, designation of the Subject Property as a brownfield area will not conflict with the development regulations established under Polk County Comprehensive Plan § 2.132 or Polk County Land Development Code Chapter 5.

2. *Florida Commerce - Because the site is in the Green Swamp Area of Critical State Concern, The Florida Department of Commerce has additional regulatory authority. If you have not already, please contact this organization to discuss this project.*

On behalf of the Applicant, we reached out to Scott Rogers with the Florida Department of Commerce (the “Department”) Areas of Critical State Concern Team by email on March 11, 2024, to introduce the proposed brownfield area designation and inquire as to the Department’s role with respect to the designation. As of the time of submittal of this response to the County’s comments, Mr. Rogers has not responded to our email.

3. *POLICY 2.124-A13: BROWNFIELD REDEVELOPMENT (in the Transit Centers and Corridors Overlay). This policy states that "Polk County shall identify and map candidate brownfield sites within the Transit Corridors and Centers Overlay to promote the redevelopment of sites in close proximity to transit and other community services." Please provide a narrative explaining how this request complies with this policy. Also, please research whether this site is served by transit.*

The Subject Property is located within 0.25 miles of a designated Transit Corridor along Interstate 4, but public transit does not directly serve the Subject Property. Although this proposed brownfield site was not initially identified and mapped by the County, the requested brownfield area designation will further the County's goal of promoting redevelopment of brownfield sites in proximity to Transit Corridors. Therefore, the requested designation of the Subject Property as a brownfield area complies with Polk County Comprehensive Plan Policy 2.124-A13.

4. *Narrative - On page 3, Footnote 7 seems to be incomplete - is it missing a portion? Please review.*

Footnote 7 carries over onto page 4 of the Eligibility Statement enclosed with the Applicant's Brownfield Area Designation Application. The complete footnote states:

Because soil contamination has been documented on the Subject Property, one such design change is the rethinking of how stormwater is managed at the property and how stormwater structures, such as dry detention ponds, swales, and exfiltration trenches are built and operated. This concern has become so acute that FDEP issued detailed guidance written to address this issue and help overcome the complexity posed by actual and potential contamination impacting redevelopment. The guidance document is enclosed at Attachment G.

Thank you for the opportunity to respond to the County's comments in advance of the DRC meeting to be held on March 14, 2024. I will attend the meeting on the Applicant's behalf to provide additional information as needed.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.



Brett C. Brumund, Esq.
/bcb

cc: Lakeland Logistics Park Owner, LLC
FRP Lakeland 1, LLC
Amy Edwards, Esq.
Michael R. Goldstein, Esq.