

IN THE DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

---

Case No. 2D21-2094

---

CONSERVANCY OF SOUTHWEST FLORIDA, INC.,

Appellant,

v.

COLLIER COUNTY, FLORIDA and  
COLLIER ENTERPRISES MANAGEMENT, INC.,

Appellees.

---

Appeal from the Circuit Court, Twentieth Judicial Circuit,  
in and for Collier County, Florida  
(Case No. 11-2020-CA-000780-0001-XX)

---

**AMICUS CURIAE BRIEF**  
**CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB FLORIDA**  
**CHAPTER, SANIBEL-CAPTIVA CONSERVATION FOUNDATION,**  
**CALUSA WATERKEEPER, ENVIRONMENTAL CONFEDERATION OF**  
**SOUTHWEST FLORIDA, CYPRESS COVE LANDKEEPERS, AND**  
**STONE CRAB ALLIANCE**

November 22, 2021

*/s/ Martha M. Collins, Esq.*  
*Martha M. Collins, Esq.*  
*Florida Bar No. 0167770*  
*mcollins@collins-lawgroup.com*  
**COLLINS LAW GROUP**  
*1110 N. Florida Ave.*  
*Tampa, FL 33602*  
*Ph: (813) 273-9166*  
*Counsel for the Amici Curiae*

# TABLE OF CONTENTS

Page(s)

<b>IDENTITY AND INTERESTS OF THE AMICI CURIAE .....</b>	<b>1</b>
A. Center for Biological Diversity .....	1
B. Sierra Club Florida .....	1
C. Sanibel-Captiva Conservation Foundation .....	2
D. Calusa Waterkeeper, Inc. ....	3
E. Environmental Confederation of Southwest Florida .....	3
F. Cypress Cove Landkeepers .....	4
G. Stone Crab Alliance .....	4
<b>SUMMARY OF ARGUMENT .....</b>	<b>5</b>
<b>ARGUMENT .....</b>	<b>6</b>
A. The Community Planning Act plays a momentous role in environmental protection in Florida. ....	6
B. Given the importance of the Community Planning Act and environmental protection, Section 163.3215 provides a strong mechanism to ensure compliance with comprehensive plan requirements.....	9
C. The trial court’s application of Heine incorrectly narrows the consistency challenge statute. ....	10
<b>CONCLUSION.....</b>	<b>18</b>

**TABLE OF AUTHORITIES**

**Page(s)**

**Cases**

*Heine v. Lee County*,  
221 So. 3d 1254 (Fla. 2d DCA 2017) ..... 10

*Imhof v. Walton County*,  
No. 1D19-0980, 2021 WL 4189197 (Fla. 1st DCA Sept. 15,  
2021)..... 10, 18

*Seminole Tribe of Fla. v. Hendry Cnty.*,  
106 So. 3d 19 (Fla. 2d DCA 2013) ..... 9

**Statutes**

Florida Statutes

§ 163.3161 ..... 8

§ 163.3177 ..... 5, 8

§ 163.3215 ..... *passim*

## **IDENTITY AND INTERESTS OF THE AMICI CURIAE**

Amici curiae are all organizations interested in protection of the environment, including natural resources, water quality, and/or threatened species. As described below, Amici Curiae rely on enactment and enforcement of laws, including comprehensive plan provisions, meant to implement “smart growth” and other environmentally friendly policies to further their goals. All of the organizations have a special interest in reversal of the trial court’s rejection of Appellant’s consistency challenge under Section 163.3215, Florida Statutes, because improper limitations on the scope of consistency challenges will hamper (or even eliminate) the ability to enforce comprehensive plan provisions that protect the environment.

### **A. Center for Biological Diversity**

The Center for Biological Diversity is a national, nonprofit conservation organization that works through science, law, and policy to protect imperiled species and their habitats. The Center has offices throughout the United States, including an office in St. Petersburg, Florida. The Center has more than 89,000 active members, 3,822 of whom reside in Florida.

### **B. Sierra Club Florida Chapter**

The Sierra Club is an environmental organization with chapters in all 50 States, Washington D.C., and Puerto Rico. Sierra Club was founded in 1892

by Scottish-American preservationist John Muir. A chapter of the national Sierra Club, Sierra Club Florida is made up of volunteer leaders and civic activists representing over 32,000 members. The Sierra Club Florida's mission "is to enjoy, explore and protect the natural places in Florida, to teach others to understand and respect the fragile environment in which we live, and to practice and promote the responsible use of Florida's ecosystems and resources."<sup>1</sup>

### **C. Sanibel-Captiva Conservation Foundation**

Sanibel-Captiva Conservation Foundation ("SCCF") is a non-profit organization founded in 1967. SCCF's mission is to protect and care for Southwest Florida's coastal ecosystems through its focus on water quality research, policy and advocacy, sea turtles and shorebirds, native landscaping, habitat and wildlife management, and environmental education. SCCF is the largest private landowner on Sanibel Island, managing more than 1,200 acres on Sanibel plus more than 600 additional acres on surrounding islands. SCCF has over fifty years of conservation on Sanibel, Captiva, and the surrounding watershed.

---

<sup>1</sup> Sierra Club Florida Chapter, <https://www.sierraclub.org/florida> (last visited Nov. 19, 2021).

#### **D. Calusa Waterkeeper, Inc.**

Calusa Waterkeeper, Inc. is a non-profit organization dedicated to the protection of the Caloosahatchee River & Estuary, Lake Okeechobee, Nicodemus Slough, Charlotte Harbor, Estero Bay, the near-shore waters of Lee County, and their watersheds, through education and promotion of responsible use and enjoyment by all people. Calusa Waterkeeper's goals and objectives include 1) improving the waters of our jurisdiction, including its impacts on riparian and estuarine systems, wildlife habitat, and marine life; 2) promoting public education concerning the historical significance, present condition, and future of our water bodies and watersheds; 3) increasing public awareness of the importance of our waters to our quality of life; 4) studying the effect of domestic, commercial, and agricultural uses of our water resources; 4) monitoring and working to improve water quality, quantity, and flow characteristics; and 5) observing and participating in the activities of public bodies responsible for the management of our waters and our watersheds.

#### **E. Environmental Confederation of Southwest Florida**

The Environmental Confederation of Southwest Florida, Inc. ("ECOSWF") is a registered Florida Not For Profit Corporation. ECOSWF members are organizations and individuals who are devoted to the general purposes of conservation of the natural resources of Florida. Specifically, the

purposes are to conserve, maintain, and protect the air, water, soil, wildlife, historic and architecturally significant structures, flora and fauna, and other natural resources of Southwest Florida, the State of Florida, and of the United States. ECOSWF works with local organizations and local and state governments to ensure sustainable growth in Southwest Florida. ECOSWF also works towards protecting endangered and listed species and their habitats.

#### **F. Cypress Cove Landkeepers**

Cypress Cove Landkeepers (“CCL”) is a Naples-based nonprofit dedicated to preserving critical habitat for endangered and threatened species through the purchase of land and utilizing those wild lands for environmental education and nature-inspired experiences. CCL purchases properties that are important to wildlife corridors, restores these properties to as natural a state as possible, encourages native flora and fauna to repopulate the area and supports the next generation of Landkeepers. CCL is located in the Golden Gate Estates area, near Rivergrass, and operates the Gore Nature Education Center.

#### **G. Stone Crab Alliance**

The Stone Crab Alliance is committed to working for economic, social, and environmental justice. The group was formed as a sister group to the

Clam Shell Alliance in the 1970s when it helped stop a nuclear power plant from being built in Bonita Springs. Presently, it is trying to prevent the expansion of new oil drilling in Naples in the Big Cypress Swamp watershed, a critical recharge area in the western Everglades.

### **SUMMARY OF ARGUMENT**

The Florida Legislature enacted the Community Planning Act, in part, to require local governments to engage in land use planning to protect and preserve Florida's natural resources, including its water resources, coastal resources, fish and wildlife habitat, and threatened species. Specifically, Florida Statutes require local governments to adopt comprehensive plans that include elements for capital improvements, future land use, transportation, coastal management, conservation, recreation and open space, housing, intergovernmental coordination, property rights, and a general element for sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge. See § 163.3177, Fla. Stat. Through these elements of comprehensive plans, local governments can prevent uncontrolled growth that would result in negative environmental impacts, instead requiring "smart growth" that mitigates such impacts.

The ability of aggrieved parties to bring consistency challenges under Section 163.3215, Florida Statutes, is integral to the enforcement of such

comprehensive plan provisions. The trial court incorrectly narrowed the scope of Section 163.3215 challenges by both eliminating entire categories of comprehensive plan protections outside of use, density, and intensity, and by improperly narrowing, to an extreme, the breadth of the term “intensity of use” itself. The trial court’s decision, if upheld, would significantly impair environmental and natural resource protections created by the Community Planning Act, not only with respect to the specific provisions of Collier County’s comprehensive plan at issue here, but also with respect to numerous provisions of comprehensive plans in counties throughout the Second District. The trial court’s decision should be reversed.

## **ARGUMENT**

### **A. The Community Planning Act plays a momentous role in environmental protection in Florida.**

In the 1970s, Florida was experiencing proliferating urban sprawl that was beginning to significantly impact its natural resources. In response, Florida began formulating a regulatory scheme “to balance the need to provide for the large number of people coming to the state with the equally legitimate demand for the protection of the state's natural systems: land, air and water.”<sup>2</sup>

---

<sup>2</sup> John M. DeGrove & Deborah A. Mines, *The New Frontier for Land Policy: Planning and Growth Management in the States* 226 (1992), <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1530&context=lr>.

Since the advent of Florida’s growth management regulations, state leadership has consistently viewed comprehensive planning as a means to integrate environmental protection into development and growth. As the Florida Department of Environmental Protection explains, “[t]he importance of comprehensive planning cannot be overstressed, because it results in decisions regarding long-term issues such as environmental protection and economic development.”<sup>3</sup> Thus, “in response to Florida’s commitment to provide the facilities and services that communities need to foster economic growth and preserve natural amenities,” the Florida Legislature passed growth management legislation in 1985, known as the Community Planning Act.<sup>4</sup>

In passing the Community Planning Act, the Florida Legislature expressly declared its intention to protect the environment and natural resources:

It is the intent of this act that local governments have the ability to preserve and enhance present advantages; *encourage the most appropriate use of land, water, and resources, consistent with the public interest*; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. *Through the process of comprehensive planning, it is intended that units of local government*

---

<sup>3</sup> *Comprehensive Plan*, Fla. Dep’t of Env’t Prot., Off. of Intergovernmental Programs, <https://floridadep.gov/oip/oip/content/comprehensive-plan>.

<sup>4</sup> *Id.*

*can* preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services; and *conserve, develop, utilize, and protect* natural resources within their jurisdictions.

§ 163.3161(4), Fla. Stat. (emphasis added).

As noted above, the Community Planning Act requires that local governments adopt comprehensive plans that include multiple elements for future land use, including, but not limited to, potable water, natural groundwater aquifer recharge, conservation, recreation and coastal management. See § 163.3177, Fla. Stat. Through these elements, local governments can prevent uncontrolled growth and the associated negative impacts on the environment. Since natural resources are often not limited by state, county, or city boundaries, a failure by one County to properly use its comprehensive plan to protect natural resources can have negative effects far beyond that County's borders. For example, one aquifer alone ranges across 100,000 square miles of Florida and parts of surrounding states but could be put at risk by poor resource planning in just one or two counties.<sup>5</sup>

---

<sup>5</sup> The Floridan Aquifer System is the main source of groundwater in the Kissimmee Basin; it underlies all of Florida and parts of southern Alabama,

**B. Given the importance of the Community Planning Act and environmental protection, Section 163.3215 provides a strong mechanism to ensure compliance with comprehensive plan requirements.**

The Legislature's requirement that local governments create and follow comprehensive plans would serve no purpose if there were no means to ensure that local governments comply with them. This is why the Legislature provided the means to enforce comprehensive plans in Section 163.3215, which "provides the *exclusive* methods for a party to challenge the consistency of a development order with a comprehensive plan." *Seminole Tribe of Fla. v. Hendry Cnty.*, 106 So. 3d 19, 22 (Fla. 2d DCA 2013) (emphasis added).

Given the importance of comprehensive planning to protection of Florida's natural resources, and the lack of any other enforcement mechanism, it is critical that Section 163.3215 provide for meaningful review. Improper judicial limitation of the scope of challenges under Section 163.3215 would give local governments free reign to approve development orders that are inconsistent with comprehensive plan provisions that are critical to the protection of the environment. Limiting consistency challenges also undermines a citizen's, non-profit's, corporation's, or government's ability to

---

southeastern Georgia and southern South Carolina. See *Groundwater Modeling*, S. Fla. Water Mgmt. Dist., <https://www.sfwmd.gov/science-data/gw-modeling> (last visited Nov. 19, 2021).

participate in the process of protecting Florida's environment, natural resources, and promotion of sustainable growth. Robust enforcement of comprehensive plan policies is the only way to ensure that environmental protections are integrated into growth in Collier County and elsewhere in Florida, as the Florida Legislature intended.

**C. The trial court's application of Heine incorrectly narrows the consistency challenge statute.**

This Court's decision in *Heine v. Lee County*, 221 So. 3d 1254 (Fla. 2d DCA 2017), interprets Section 163.3125(3) claims of inconsistency to be limited to those based on land use, density, and intensity of use. We disagree with that holding for the reasons stated by the First District in *Imhof v. Walton County*, No. 1D19-0980, 2021 WL 4189197 (Fla. 1st DCA Sept. 15, 2021). Notwithstanding, the trial court's *application* of *Heine* in this case was incorrect and, if affirmed, would severely undermine the environmental protections afforded by growth management laws.

Many violations of growth management provisions that protect the environment fall within *Heine's* limitations. For instance, as argued by Appellant Conservancy of Southwest Florida, Inc., claims alleging inconsistencies with comprehensive plan requirements regarding traffic squarely fall within "intensity of use." Excluding traffic-related claims from the

scope of Section 163.3215 would prevent enforcement of policies that serve to protect natural resources and the environment. For example, Collier County's Conservation and Coastal Management Element requires that categories of new developments set aside native habitat areas as preserves consistent with Goal 6.<sup>6</sup> When those preserves provide habitat for listed species, the comprehensive plan requires a wildlife management plan that minimizes impacts to listed species through appropriate traffic abatement measures such as "roadway crossings, underpasses, and signage" which "shall be used where roads must cross wildlife corridors." Collier County Growth Management Plan, Conservation and Coastal Management Element Policy 7.1.2(2)(a).

The ruling on appeal by itself is, of course, important. Rivergrass is the first village in a string of developments proposed in the Rural Lands Stewardship Area ("RLSA") of Collier County. Portions of the RLSA, including a majority of the area where Rivergrass is proposed for development, have been identified as primary habitat for the Florida panther and are important

---

<sup>6</sup> Collier County Growth Management Plan, Conservation and Coastal Management Element, "GOAL 6: TO IDENTIFY, PROTECT, CONSERVE AND APPROPRIATELY USE NATIVE VEGETATIVE COMMUNITIES AND WILDLIFE HABITAT," <https://www.colliercountyfl.gov/home/showpublisheddocument/74267/636377074282870000> (last visited Nov. 19, 2021).

ecological assets to the whole region. Rivergrass would consume almost 1,000 acres of farmland, add 2,500 residential units, increase demands on water and sewer infrastructure, and displace habitat for endangered species. Since the Collier County Board of County Commissioners approved the Rivergrass development in 2020, several additional developments of similar scale have also been approved within the RLSA. The circuit court should have found that the provisions of Collier County's comprehensive plan relating to traffic, fiscal neutrality, and the Land Development Code are enforceable in a Section 163.3215 challenge and reviewed whether Rivergrass was consistent with those provisions.

But, beyond Rivergrass and these specific provisions of Collier County's comprehensive plan, if affirmed, the trial judge's decision could thwart the ability of private parties to enforce environmentally friendly growth management provisions in other counties' and municipalities' comprehensive plans throughout the Second District. Although intended to be protected by the Florida Legislature, many such environmental conservation provisions may not fall under the purview of the trial court's narrow analysis. Without enforcement of these provisions, incompatible development could quickly decimate the state's natural resources.

Multiple local governments in the immediate and surrounding areas of Rivergrass have comprehensive plan policies that are designed to protect natural resources from potential impacts of new development, including, but not limited to, Collier County’s plan. Examples of such policies are provided below. If the trial court’s ruling here were affirmed, other trial courts could find that any or all of these, and similar provisions, are outside the scope of Section 163.3215 challenges, which could in effect render these environmental protections unenforceable.

### **Lee County**

Lee County’s comprehensive plan requires smart growth policies to avoid sprawl, including a mandate to:

“Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created.” Lee Plan, Future Land Use Element Objective 2.2.<sup>7</sup>

And, “Map 1 of the Future Land Use Map series indicates the *uses and density ranges* that will ultimately be permitted on a given parcel.” When permitting any given land use on a parcel, the county must specifically consider, among other things, “[w]hether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns.” *Id.* at Policy 2.2.2 (emphasis added).

---

<sup>7</sup> References are to The Lee Plan 2021 Codification (as amended through January 2021), <https://www.leegov.com/dcd/planning/leeplan> (last visited Nov. 19, 2021).

Lee County's comprehensive plan also provides numerous policies to protect water resources, including the following:

"[D]evelopment designs must provide for maintaining or improving surface water flows, groundwater levels, and lake levels at or above existing conditions." Lee Plan, Conservation and Coastal Management Element Policy 126.1.4.

"New development and additions to existing development must not degrade surface and ground water quality." *Id.* at Policy 125.1.2.

"Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On or off-site mitigation will only be permitted in accordance with applicable state standards." *Id.* at Policy 124.1.2.4.

"The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems." *Id.* at Policy 125.1.3.

Lee County's Plan also provides for the protection of coastal resources and listed species habitat, including requirements that:

"development within the Coastal High Hazard Area be compatible with natural systems, such as, water retention and purification, wildlife habitat, primary productivity, and defense against coastal flooding," *Id.* at Policy 101.1.1;

"development affecting coastal and estuarine water resources [must] maintain or enhance the biological and economic productivity of those resources," *Id.* at Policy 122.1.2; and

"[n]ew developments must protect remnants of viable habitats when listed vegetative and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided." *Id.* at Policy 123.4.4.

These provisions of the Lee County Plan would be essentially meaningless if they were rendered unenforceable by an unlawfully narrow reading of Section 163.3215. Without an enforceable plan, Lee County would face unchecked sprawl and unplanned growth that threatens wetland and coastal resources, which is inconsistent with the plan itself as well as the Florida Legislature’s intent to encourage smart growth.

### **Sanibel Island**

Sanibel Island’s comprehensive plan provides numerous policies for protection of coastal areas and wildlife. A few such policies include the following:

“To maintain or improve estuarine environmental quality, ensure that the natural functions of the mangrove and adjacent ecological zones are maintained by continued *implementation of the development regulations and* performance standards established in the Land Development Code and best management practices.” Sanibel Plan Objective 2.<sup>8</sup>

“Only permit lighting that conforms to standards that will not interfere with turtle nesting or hatchlings return to the sea and that will not interfere with the natural appearance of the beach.” Sanibel Plan, Coastal Zone Protection Element Section 3.2.1.18

---

<sup>8</sup> References are to the Sanibel Plan, the Comprehensive Land Use Plan of the City of Sanibel, Florida, <https://www.mysanibel.com/Departments/Community-Services-Department/Planning-and-Code-Enforcement/The-Sanibel-Plan-Volumes-1-and-2> (last visited Nov. 19, 2021).

“Development, redevelopment and commercial activities shall not measurably degrade the use of the beach habitat by indigenous and migratory species of wildlife.” *Id.* at Policy 7.1

These provisions of Sanibel Island’s Plan would be essentially meaningless if they were rendered unenforceable by an unlawfully narrow reading of Section 163.3215.

### **Village of Estero (Lee County)**

The Village of Estero’s comprehensive plan provides numerous policies designed to minimize impacts on natural resources from new development, including the following:

“New development must not degrade water quality of surface waters or groundwater or contribute to flooding of other areas.” Village of Estero Comprehensive Plan, Conservation and Coastal Management Element, CCM-1.9.2.<sup>9</sup>

“Continue implementing regulations and incentives to prevent incompatible development in and around environmentally sensitive lands; which are rare and unique uplands as described in Policy CCM-1.5.1 and wetlands, as defined in the definition section of this Plan.” *Id.* at CCM-1.4.3.

“Require that the integrity of sloughs be maintained and restored, as opportunities arise, so that natural flow ways are functionally preserved.” *Id.* at CCM-1.4.5

---

<sup>9</sup> References are to the Village of Estero Comprehensive Plan, <https://estero-fl.gov/village-comprehensive-plan/> (last visited Nov. 19, 2021).

These provisions of the Village of Estero Plan would be essentially meaningless if they were rendered unenforceable by an unlawfully narrow reading of Section 163.3215.

In sum, the trial court's narrow analysis of consistency risks not only paralyzing enforcement of the Collier County comprehensive plan's provisions relating to those pled by the Conservancy of Southwest Florida, Inc., but also many others designed for environmental protection and natural resource conservation.

From the very beginning, the Legislature and other state leadership have developed Florida's growth management laws with the consistent view that environmental protection is a key aspect of growth management through comprehensive planning. Courts should not eliminate these important environmental protections by adopting a narrow and limited scope of the consistency challenge. Given the importance of protecting Florida's environment and natural resources, the Court should give the terms "use," "density," and "intensity" the broadest scope envisioned and set forth by the Florida Legislature.

If this Court adopts the trial court's narrow interpretation to the terms "use," "density," and "intensity," it risks entirely blocking judicial review of local government compliance with comprehensive plan provisions designed to

protect the environment. It would create a precedent that does great harm to the Community Planning Act's purpose and ability to protect natural resources and prevent urban sprawl. The Court should instead reverse the trial court's ruling.

### **CONCLUSION**

For the above stated reasons herein, this Honorable Court should reverse the final judgment of the trial court that improperly narrowed the consistency analysis under Section 163.3125(3), Florida Statutes.

Since there is now inconsistency amongst the District Courts of Appeal, should this Honorable Court affirm, Amici Curiae respectfully request that the Court certify an express and direct conflict to the Florida Supreme Court between this Court's decision in *Heine* and the First District's decision in *Imhof*. And, given the importance of the consistency challenge provision of Section 163.3215 to environmental protection, the Court should certify the issue of the proper scope of Section 163.3215 claims as involving a question of great public importance.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the following was filed using the Florida Courts E-Filing Portal and served by Electronic Mail to all counsel listed below this 22<sup>nd</sup> day of November, 2021.

/s/ Martha M. Collins, Esq.  
*Martha M. Collins, Esq.*  
*Florida Bar No. 0167770*  
*mcollins@collins-lawgroup.com*  
**COLLINS LAW GROUP**  
*1110 N. Florida Ave.*  
*Tampa, FL 33602*  
*Ph: (813) 273-9166*  
*Counsel for the Amici Curiae*

## SERVICE LIST

### *Counsel for Collier County, Florida:*

Sally A. Ashkar, Esq. Jeffrey  
A. Klatzkow, Esq. Colleen  
Greene, Esq.  
COLLIER ATTORNEY'S OFFICE  
3299 Tamiami Trail E. Suite  
800  
Naples, FL 34112  
Phone: (239) 252-8400  
[Sally.Ashkar@colliercountyfl.gov](mailto:Sally.Ashkar@colliercountyfl.gov)  
[Jeff.Klatzkow@colliercountyfl.gov](mailto:Jeff.Klatzkow@colliercountyfl.gov)  
[Colleen.Greene@colliercountyfl.gov](mailto:Colleen.Greene@colliercountyfl.gov)  
[Marian.Rhyne@colliercountyfl.gov](mailto:Marian.Rhyne@colliercountyfl.gov)

Gregory N. Woods, Esq.  
Jessica F. Tolin, Esq.  
WOODS, WEIDENMILLER,  
MICHETTI & RUDNICK LLP  
9045 Strada Stell Court  
Suite 400  
Naples, FL 34109  
Phone: (239) 325-4070  
[gwoods@lawfirmnaples.com](mailto:gwoods@lawfirmnaples.com)  
[jtolin@lawfirmnaples.com](mailto:jtolin@lawfirmnaples.com)

### *Counsel for Collier Enterprises Management, Inc.:*

Glenn Burhans, Jr., Esq.  
Reggie Bouthillier, Jr., Esq.  
Bridget Smitha, Esq.  
STEARNS, WEAVER, MILLER,  
WEISSLER ALHADEFF &  
SITTERSON, P.A.  
106 East College Avenue  
Suite 700  
Tallahassee, FL 32301  
Phone: (850) 329-4850  
[gburhans@stearnsweaver.com](mailto:gburhans@stearnsweaver.com)  
[rbouthillier@stearnsweaver.com](mailto:rbouthillier@stearnsweaver.com)  
[bsmitha@stearnsweaver.com](mailto:bsmitha@stearnsweaver.com)  
[cabbuhl@stearnsweaver.com](mailto:cabbuhl@stearnsweaver.com)

Jacob T. Cremer, Esq.  
Sharon Britton, Esq.  
STEARNS, WEAVER, MILLER,  
WEISSLER ALHADEFF &  
SITTERSON, P.A.  
401 E. Jackson Street  
Suite 2100  
Tampa, FL 33602  
Phone: (813) 223-4800  
[jcremer@stearnsweaver.com](mailto:jcremer@stearnsweaver.com)  
[sbritton@stearnsweaver.com](mailto:sbritton@stearnsweaver.com)  
[mhernandez@stearnsweaver.com](mailto:mhernandez@stearnsweaver.com)

Richard D. Yovanovich, Esq.  
COLEMAN, YOVANOVICH  
& KOESTER, P.A.  
4001 Tamiami Trail North  
Suite 300  
Naples, FL 34103  
Phone: (239) 435-3535  
[ryovanovich@cyklawfirm.com](mailto:ryovanovich@cyklawfirm.com)  
[dquintanilla@cyklawfirm.com](mailto:dquintanilla@cyklawfirm.com)

*Counsel for the Conservancy of Southwest Florida, Inc.*

Geoffrey J. Michael  
Florida Bar No. 86152  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
Phone: (202) 942-5000  
[geoffrey.michael@arnoldporter.com](mailto:geoffrey.michael@arnoldporter.com)

Lauren C. Daniel\*  
Brian D. Israel\*  
Ethan G. Shenkman\*  
Stephen K. Wirth\*  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
Phone: (202) 942-5000

*\* Admitted pro hac vice*

## CERTIFICATE OF COMPLIANCE

Pursuant to Florida Rule of Appellate Procedure 9.045(b), counsel for the above named Amici Curiae hereby certifies that the foregoing brief complies with the applicable font requirements because it is written in 14-point Arial font. Pursuant to Florida Rule of Appellate Procedure 9.045(e), counsel the above named Amici Curiae further certifies that the foregoing brief contains 3,516 words, excluding the parts of the brief exempted from the word count by Rule 9.045(e).

Dated: November 22, 2021

/s/ Martha M. Collins, Esq.  
*Martha M. Collins, Esq.*  
*Florida Bar No. 0167770*  
*mcollins@collins-lawgroup.com*  
**COLLINS LAW GROUP**  
*1110 N. Florida Ave.*  
*Tampa, FL 33602*  
*Ph: (813) 273-9166*  
*Counsel for the Amici Curiae*