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Via email

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Mayor Daniella Levine Cava
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RE: Verified Nesting of State Threatened Tricolored Heron at Calusa/Z2021000031

Dear Mayor Levine Cava and Mr. Kerbel,

This letter is to confirm that on May 2, 2022, residents discovered nesting of the State Threatened Tricolored Heron at the Calusa Rookery.

This discovery was contemporaneously emailed to the Florida Fish and Wildlife Commission (FWC) and the Miami-Dade Division of Environmental Resource Management (DERM) on May 3, 2022 with a photograph and the location of the nest.

DERM responded via email that they had also recently surveyed the Calusa Rookery on April 28 and “noted the 2 tri-colored herons on what appeared to be a nest” and included this in their April 28th survey of the Calusa Rookery which was posted to the Online Environmental Records (OEM) site on May 4, 2022.

We also note that last year during the 2021 nesting season, residents previously discovered nesting of the Tricolored Heron at the Calusa Rookery, which was reported to FWC and added to their map of recent imperiled wading bird colonies.

Mayor Cava’s November 27th, 2021 memo regarding the Calusa Golf Course Rezoning Application (attached as Exhibit A) stated:

“If state or federally listed bird species are determined to be utilizing the rookery, the rookery will be preserved, and the developer will be required to modify their proposed development plan to accommodate preservation of the rookery.”

The Miami-Dade Comprehensive Master Plan (CDMP) Conservation Element states:

CON-9C. Rookeries and nesting sites used by federal or State designated endangered or threatened species shall not be moved or destroyed.

As per the Miami-Dade Code of Ordinances, the County must ensure there are no unfavorable impacts on the environmental and natural resources of Miami-Dade County from this proposed development, and that listed species and their habitat are protected and preserved.

We wanted to ensure that you were aware of the confirmation of the Tricolored Heron nesting site and request that all necessary actions be taken to ensure preservation of the rookery.

Thank you for your attention to this important environmental issue.

Thank you,

s/davidwinker/
David Winker, Esq.

cc: Lee Hefty, Director DERM


EXHIBIT A

Memorandum



Date: November 27, 2021

To: Lee Hefty, Director, RER-DERM
Maria Nardi, Director, PROS
Eulois Cleckley, Director, DTPW

From: Daniella Levine Cava
Mayor 

Subject: Calusa Golf Course Rezoning Application

I have closely followed the issue of the Calusa development since my days on the County Commission, when I voted against releasing the golf course covenant. Through the recent rezoning process, I carefully followed the public hearing, listened to the testimony and public feedback offered through the public process, and reviewed the analysis and conditions placed by staff on the zoning request.

I appreciate that many residents feel strongly about this issue and that they have taken the time to make their voices heard on both sides. As part of a family that spends all our free time in nature, I share our residents' concerns about protecting impacted wildlife and expanding and enhancing publicly accessible green space across our community.

Given that this area is private property that can legally be developed with more than a golf course since the covenant was released, and following the Board of County Commissioners' near unanimous 10-2 vote approving the re-zoning, my administration is committed to taking the best next steps: ensuring any endangered species have all possible protection, while also creating additional green spaces and minimizing impacts on traffic and quality of life for residents.

I am directing the Division of Environmental Resources Management (DERM) to take all possible steps to enforce critical environmental protection measures – not only ensuring the redevelopment process adheres to all land development and environmental protection regulations, but also providing, to the maximum extent permitted by law, additional protections to potentially impacted wildlife identified in the redevelopment area.

The preservation of open space is another core concern raised by the conversion of the former golf course to single family homes. While the approval by the Board did not require the establishment of a local neighborhood park on the former golf course itself, I am directing Parks, Recreation and Open Spaces (PROS) to adhere to the condition imposed by the Board that the park impact fees generated by the project will, to the maximum extent feasible, be used to improve the Kendall Indian Hammocks Trail and the West Kendall Trail, and any park impact fees not ultimately used for those projects to be used to maximum positive impact to expand or enhance public green space for residents in the area and enhance habitat values in the immediate area.

This memo serves to outline some of the key actions the County will implement to address residents' specific concerns related to environmental protection and green space raised at the zoning hearing:

Steps to protect birds identified in the rookery island within one of the former golf course lakes:

- As a condition of the zoning approval, the applicant is required to conduct a biological survey to further confirm the existence of a rookery and to identify bird species that are using the rookery, including monthly surveys of the rookery during a six-month period from March 2022 through August 2022. Importantly, the survey period is designed to coincide with wading bird nesting season so we can document if any state or federally listed species are utilizing the area as a rookery.
- I am directing DERM staff to directly observe the developer's environmental field review in order to verify their consultant's survey findings in real time.
- In addition, I am directing DERM to go above and beyond what is currently required by the Board's zoning approval and seek additional access to the site so that County staff scientists can conduct their own independent survey in addition to the survey conducted by the developer, to further determine the existence of a rookery and, if so, if any state or federally listed species are using the rookery. DERM will use information from these surveys to determine whether and to what extent the rookery must be preserved. If state or federally listed bird species are determined to be utilizing the rookery, the rookery will be preserved, and the developer will be required to modify their proposed development plan to accommodate preservation of the rookery.
- Finally, even if the rookery is determined not to be legally required to be preserved, I am asking that RER work with the developer to recreate the same habitat features in the lakes identified in their plans.

Steps to address protection of the Florida Bonneted Bat:

- As a condition of zoning approval, the developer is required to implement applicable Best Management Practices (BMPs) recommended by the U.S. Fish and Wildlife Service for the Florida Bonneted Bat (FBB) to support the bat's foraging and social activities. Staff conditions included minimizing the use of pesticides in areas the FBB may use for feeding, to avoid impacting insect populations that support the bat, and minimizing the installation of artificial lighting in areas the bats may use for feeding at night. I am hereby directing the relevant professional staff to take all appropriate steps to enforce these conditions, including placing this property on the County Mosquito Control "no-spray" list.
- I am also hereby directing DERM to develop a foraging habitat plan with the developer, including the incorporation of wetland plants along the lakes' edges, to better support the bonneted bat and other wildlife – including not just native trees for aesthetics, but native shrubs and grasses to encourage true habitat opportunities.
- Since the developer will be required to conduct inspections of tree cavities for the presence of any Florida Bonneted Bat roosts, I am directing DERM to participate in those inspections as well.
- Finally, since the developer has agreed to install bat boxes, bat houses, or both, I am asking that we ensure that a suitable location is identified, and not rely on the developer deciding if there might be a "suitable location" for encouraging roosting in the area.

Steps to ensure park needs are met and improvements are made in the area:

- The Parks Department identified a need for 5 acres of park land to serve the residents of the development and area. The approval by the Board required that, since no park would be required on the former golf course property, the park impact fees are to be used to improve and extend the nearby trails. In order to do so, I understand that Code changes are required to allow for park impact fees to be applied as directed.
- I am directing PROS to work with the County Attorney to develop recommended code amendments to effectuate this. If the County Park Impact Fee ordinance is amended,

park impact fees generated by the project could be used to improve and extend the West Kendall Trail or the Kendall Indian Hammocks Soccer Link Trail as the Board required, and to the extent the fees cannot be used for those trails, they could be used for other nearby greenway trails. In addition, amending the park impact fee ordinance would open opportunities to improve our greenway trails in the future.

- I also echo Commissioner Regalado in pointing out the need to improve the Calusa neighborhood's connectivity with the multiple existing small parks within walking and biking distance, and am directing Department of Transportation and Public Works staff to seek ways to make improvements before development begins.

As a growing community facing critical choices as we cope with climate change and sea level rise, we have an urgent responsibility to ensure our residents have space to live, work, and play while protecting and preserving the uniquely vulnerable natural resources that make Miami-Dade County such a special place to call home.

I am committed to using all possible County resources to protect vulnerable species that could potentially be impacted by this golf course redevelopment. Further, I remain deeply committed to protecting the Urban Development Boundary (UDB) in order to support our community's long-term resilience and to safeguard our most vulnerable lands against flooding and sea level rise. Although efforts are now underway to allow development outside the UDB, my administration is firmly committed to fighting these efforts as we know that standing firm on the UDB is essential to protecting our environment and threatened habitats now and for the future.

Preserving the UDB means we must prioritize sustainable development inside the boundary – and, critically, make investments in better connected, more livable communities. My administration will continue to work with the community and this Board to invest in neighborhoods where all our residents can grow and thrive, by improving and expanding transit, mobility, and urban green spaces, while balancing the need to protect our natural environment as we grow.

- c: Honorable Chairman Jose "Pepe" Diaz, and Members, Board of County Commissioners
Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney
Jess M. McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Lourdes Gomez, Director, Department of Regulatory and Economic Resources
Melissa Adames, Director, Clerk of the Board
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Yinka Majekodunmi, Commission Auditor