IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY, FLORIDA

CASE No.: 2025-CA-000621
DIVISION: 49

FLAGLER COUNTY — PALM COAST HOMEBUILDERS ASSOCIATION, INC., a Florida not-for-profit corporation; INTRACOASTAL CONSTRUCTION, LLC, a Florida limited liability company; INTEGRITY HOMES USA, LLC, a Florida limited liability company; THOMAS CONSULTING AND CONSTRUCTION, LLC, a Florida limited liability company; 1621 BUILDING AND REMODELING, LLC, a Florida limited liability company; FLORIDA GREEN BUILDING CONSTRUCTION, INC., a Florida corporation; and WILLIAM R. BARRICK, an individual,

Plaintiffs,

v.

CITY OF PALM COAST, a Florida Municipal Corporation

Defendant.
_____/

DEFENDANT CITY OF PALM COAST'S MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

COMES NOW, Defendant, CITY OF PALM COAST, by and through the undersigned counsel and pursuant to Rule 1.140, Florida Rules of Civil Procedure, respectfully moves to dismiss Plaintiffs, FLAGLER COUNTY – PALM COAST HOMEBUILDERS ASSOCIATION, INC., INTRACOASTAL CONSTRUCTION, LLC, INTEGRITY HOMES USA, LLC, THOMAS CONSULTING AND CONSTRUCTION, LLC, 1621 BUILDING AND REMODELING, LLC, FLORIDA GREEN BUILDING CONSTRUCTION, INC., and WILLIAM R. BARRICK (collectively, the "Plaintiffs"), Amended Complaint for failure to state a cause of action for which

relief may be granted, and in support thereof states as follows:

BACKGROUND AND FACTUAL ALLEGATIONS

Plaintiffs comprise the Flagler County–Palm Coast Homebuilders Association, five local construction companies, and a resident of the City of Palm Coast, Florida, all of whom purport to be subject to the increased impact fees enacted by the City. The three Ordinances challenged were adopted on July 1, 2025, to update the City's one-time impact fees for new development. These Ordinances collectively raise the City's impact fee rates for new residential and commercial construction to fund expanded fire, parks, and transportation infrastructure. Under a newly enacted state law (discussed below as "SB 180"), Plaintiffs first served the City with a pre-suit Notice of Violation on August 27, 2025, advising that the new impact fee ordinances were adopted in violation of SB 180's restrictions. Am. Compl. ¶ 2.13 and Ex. B. More than 14 days elapsed after the City's receipt of that notice without any modification or repeal of the ordinances by the City. Am. Compl. ¶ 2.14. Thereafter, on October 1, 2025, Plaintiffs filed their original Complaint in this case, seeking to have the 2025 Impact Fee Ordinances declared invalid and enjoining their enforcement. The City responded by moving to dismiss the original Complaint.

On November 25, 2025, Plaintiffs filed an Amended Complaint, alleging that the City's adoption of the Ordinances violates Section 28 of Chapter 2025-190, Laws of Florida, which broadly prohibits certain local governments from adopting land development regulations that are "more restrictive or burdensome" than those in effect as of August 1, 2024, Am. Compl. ¶ 2.20. According to Plaintiffs, the City's enactment of the Ordinances, imposing increased impact fees, constitutes "more restrictive or burdensome" amendments to "land development regulations" and is therefore void under Section 28. Am. Compl. ¶ 2.21.

In addition, the Amended Complaint alleges that the Ordinances fail to comply with the

Florida Impact Fee Act, § 163.31801, Florida Statutes (the "Act"). Plaintiffs assert that the City's expert impact fee studies did not rely on the most recent locally available data, that the new impact fees do not have the requisite dual rational nexus to the impacts of new development, that the city-wide application of the fees fails the "special benefit" test, and that the Ordinances improperly invoked "extraordinary circumstances" to exceed statutory caps on fee increases. Am. Compl. ¶ 3.30. Based on these allegations, Plaintiffs seek declaratory judgment invalidating the Ordinances and injunctive relief preventing their enforcement.

ARGUMENT AND AUTHORITY

A motion to dismiss is designed to test the legal sufficiency of the complaint, not to determine factual issues. *The Florida Bar v. Greene*, 926 So. 2d 1195, 1199 (Fla. 2006). While the court must accept the factual allegations as true, mere conclusions are insufficient. *Maiden v. Carter*, 234 So. 2d 168 (Fla. 1st DCA 1970); *Poirier v. Villages Senior Hous. I OPCO, LLC,* 395 So. 3d 640 (Fla. 5th DCA 2024).

When reviewing a motion to dismiss, the trial court is limited to considering the four corners of the complaint along with the attachments incorporated into the complaint. *Swerdlin v. Florida Mun. Ins. Tr.*, 162 So. 3d 96, 97 (Fla. 4th DCA 2014); Where the elements of a cause of action are not pled in the complaint, they may not be inferred by the context of the allegations. *Sanderson v. Eckerd Corp.*, 780 So. 2d 930 (Fla. 5th DCA 2001). Crucially, exhibits attached to the complaint are controlling where the allegations of the complaint are contradicted by the exhibits; the plain meaning of the exhibits will control. *See, e.g., Ginsberg v. Lennar Florida Holdings, Inc.*, 645 So. 2d 490 (Fla. 3d DCA 1994)

I. Impact Fees are Not "Land Development Regulations"

Counts I and II of Plaintiffs' Amended Complaint should be dismissed for failing to state a cause of action for declaratory or injunctive relief because the Ordinances enacted by the City do not constitute an amendment to its comprehensive plan or land development regulations under Section 28, Chapter 2025-190, Laws of Florida.

Plaintiffs' central claim in Counts I and II is that the impact fee increases adopted by the Ordinances are "more restrictive or burdensome … land development regulations" under Section 18. Am. Compl. ¶ 2.21, 2.27. The statute cited by Plaintiffs, § 163.3164(26), Fla. Stat., defines "land development regulations" as ordinances regulating "any aspect of development" and provides examples such as "zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land". The definition relied on by Plaintiffs clearly pertains to regulations that control the physical use, form, and intensity of development. Under the canon of statutory construction *expressio unius est exclusio alterius* (the expression of one thing implies the exclusion of others), the Legislature's decision to list zoning, subdivision, building construction and sign regulations, but *not* the imposition of fees, demonstrates the clear legislative intent of the scope of "land development regulations." *See Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976).

Impact fees, by contrast, are financial exactions governed by a separate, highly specific, and comprehensive statute: the Florida Impact Fee Act, § 163.31801. Impact Fees do not control whether or how land can be developed; they are a condition for the issuance of a building permit to fund the infrastructure necessitated by that development. The Florida Legislature explicitly authorized impact fees under § 163.31801(2), stating, "The Legislature further finds that impact fees are an extension of a local government's home rule authority to provide certain

services within its jurisdiction," as distinguished from a local government's land use regulatory authority.

Florida courts have consistently held that impact fees, such as those set forth in the Ordinances, are not land use regulations. *Baywood Const., Inc. v. City of Cape Coral*, 507 So. 2d 768 (Fla. 2d DCA 1987) ("A valid impact fee ordinance enacted for the purpose of capital expansion is not a zoning ordinance, and the imposition of a fee for this purpose does not substantially restrict the use of one's property") (emphasis added); *St. Johns Cnty. v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991) ("The use of impact fees has become an accepted method of paying for public improvements that must be constructed to serve new growth"); *Galaxy Fireworks, Inc. v. City of Orlando*, 842 So. 2d 160 (Fla. 5th DCA 2003) ("[N]otice and hearing requirements are not usually ... required for impact fee ordinances which have the primary purpose of capital expansion rather than land use regulation").

The Amended Complaint fails to demonstrate that the Ordinances adopted more restrictive or burdensome land development regulations under Section 28, since impact fees are distinct from land development regulations. Because each of the Ordinances concerns impact fees, not land development regulations, they are outside the scope of Section 28. Therefore, Plaintiffs' Amended Complaint fails to state a cause of action for declaratory relief under Count I.

Count II is entirely derivative of Count I, seeking injunctive relief for the same alleged Section 28 violation rather than declaratory relief. Because Count I fails to state a cause of action for the reasons stated above, Count II must also fail.

II. <u>Counts III and IV Fail to Plead a Violation of the Impact Fee Act</u>

In Counts III and IV, Plaintiffs allege that the Ordinances violate the Florida Impact Fee Act, § 163.31801, Fla. Stat., and the Florida Constitution. These claims consist of conclusory

allegations that are directly contradicted by the detailed legislative findings embedded within the Ordinances themselves and the comprehensive impact fee studies incorporated by reference into the Amended Complaint. Plaintiffs fundamentally misapply controlling legal precedent by conflating school impact fee cases, which involve geographically-defined attendance zones, with Fire Rescue, Parks, and transportation services that operater as integrated, citywide, networked systems. Counts III and IV are legally insufficient and must be dismissed.

Plaintiffs rely heavily on § 163.31801(9), Fla. Stat., which places the burden of proof on the government in an impact fee challenge. This statutory provision shifts the burden of proof to the government at the evidentiary stages of litigation, such as summary judgment or trial. It does not, however, relieve Plaintiffs of their initial burden at the pleading stage to allege ultimate facts sufficient to state a cause of action upon which relief can be granted. See *Bd. of Cnty. Commissioners, Santa Rosa Cnty. v. Home Builders Ass'n of W. Florida, Inc.*, 325 So. 3d 981 (Fla. 1st DCA 2021) (noting that while "the government has the burden of proof in any challenge of an impact fee," plaintiffs must still adequately plead their challenge) (emphasis added). Plaintiffs' allegations in Count III and IV amount to a laundry list of purported statutory violations and critiques of the City's expert studies. Am. Compl. ¶ 3.30. These are arguments and mere legal conclusions, not well-pleaded facts.

To the contrary, the impact fee studies (Am. Compl. Ex. D, E, F) and Ordinances (Am. Compl. Ex. A-1, A-2, A-3) affirmatively demonstrate the City's compliance with the Florida Impact Fee Act, underscoring that Plaintiffs' assertions are conclusory and legally insufficient. Accordingly, Counts III and IV should be dismissed.

A. City's Reliance on Most Recent and Localized Data is Demonstrated by Exhibits

Plaintiffs allege that the City's impact fee studies violated § 163.31801(3)(a), which requires that "the calculation of the impact fee be based on the most recent and localized data." Am. Compl. ¶ 3.18. However, Plaintiffs fail to identify what data the City allegedly failed to use, what more recent or localized data exists, or how the use of such data would materially alter the impact fee calculations. Plaintiffs do not point to what "more recent" data exists, which local conditions were ignored, or how using different data would have materially changed the fee amounts. This remains a bare legal conclusion. In fact, the exhibits to the Amended Complaint flatly contradict any notion that the City relied on dated or non-local information.

The City's impact fee studies were completed, within months of the Ordinances' adoption, using current data and information provided by the City and relevant authorities. For example, the Parks & Recreation Impact Fee Final Report ("Parks Report") (Am. Compl. Ex. E-1) and Fire Rescue Impact Fee Final Report ("Fire Rescue Report") (Am. Compl. Ex. D-1) expressly state that key inputs were obtained from the U.S. Census Bureau, Flagler County Property Appraiser, and directly from discussions with City staff, ensuring locally tailored figures. *See* Am. Compl. Ex. E1 at 13-22, D-1 at 14-20. Further, the Parks and Fire Rescue Reports each confirm that the proposed fees were developed to meet the requirements of the Florida Impact Fee Act and are based on "current levels of service", "current estimated population", "current developed non-residential square footage", and "current cost estimates." Am. Compl. Am. Compl. Ex. E1 at 5-12, D-1 at 5-11.

Likewise, the Transportation Impact fee Technical Report Update ("Transportation Report") (Am. Compl. Ex. F-1) explicitly states: "This update is being undertaken to ensure that the City's transportation impact fee is based on the most recent and localized data as required by Florida Statute Section 163.31801." (emphasis added) Am. Compl. Ex. F-1 at 13. In determining

the existing and projected population, the Transportation Report utilized the most recent data from the Bureau of Economic and Business Research and the University of Florida, localized to Flagler County. Am. Compl. Ex. F-1 at 22. Further, in preparing the Transportation Report, "[a]n existing conditions evaluation [was] conducted to ensure that new development is not being charges for existing system wide transportation deficiencies." Amd. Compl. Ex. F-1 at 24. The Transportation Report also used the "most recent travel demand model" and FDOT's 2025 long range cost estimates, among other recent and localized data. Am. Compl. Ex. F-1 apps. C, F.

Nowhere do Plaintiffs allege that these studies relied on some external statewide average or outdated figures, nor could they, as the 2025 studies themselves are attached to their Amended Complaint. Plaintiffs' invocation of the "most recent and localized data" requirement remains unsupported by any well-pled fact. Absent any factual allegation that Palm Coast used data unrepresentative of local conditions, Plaintiffs have not stated a plausible violation of § 163.31801(4)(a).

B. Plaintiffs Fail to Allege Lack of Dual Rational Nexus

Plaintiffs allege that the Ordinances fail the "dual rational nexus test," which requires: (1) a reasonable connection between the need for additional capital facilities and the growth in population generated by new development; and (2) a reasonable connection between the expenditures of the funds collected and the benefits accruing to new development. *St. Johns Cnty. v. Ne. Fla. Builders Ass'n*, 583 So. 2d 635, 637 (Fla. 1991). See Am. Compl. ¶¶ 3.19-3.21. However, Plaintiffs do not allege any ultimate facts demonstrating the absence of either rational nexus. They do not identify specific infrastructure needs that are unrelated to new development, specific expenditures that would not benefit new development, or any mismatch between projected

growth and proposed capital improvements. Instead, Plaintiffs offer only the legal conclusion that the nexus is lacking.

The dual rational nexus test is met when the local government demonstrates "a reasonable connection," not a perfect correlation, between new development and infrastructure needs, and between fee collections and benefits to new development. *Hollywood, Inc. v. Broward Cnty.*, 431 So. 2d 606, 609 (Fla. 4th DCA 1983). Plaintiffs have not alleged any facts showing that the City's impact fees fail this reasonableness standard.

Here, the City's Impact Fee Studies identify specific future capital improvements needed out to year 2050 to serve projected growth in Palm Coast. The Transportation Report, for example, bases the fee on the road capacity improvements required to accommodate increased vehicle travel from new development through 2050. Am. Compl. Ex. F-1 at 31 ("Thus, the 2050 roadway improvements are not assessing new development for more vehicle miles of capacity than is what is needed to accommodate projected increases in vehicle miles of travel"). Calculating the cost per vehicle-mile of capacity needed for growth and allocating that cost to new development in a fair, formula-driven manner is a methodology long approved by Florida courts. *See St. Johns Cnty.*, 583 So. 2d at 637-39. The Transportation Report explicitly concludes that the updated fee "meets the dual rational nexus test and the rough proportionality test, consistent with Florida Statute § 163.31801." Am. Compl. Ex. F-1 at 3. Likewise, the Fire Rescue and Parks Reports document the reasonable level-of-service standards and capital cost factors used to ensure that new development pays only its proportionate share of new infrastructure needs. Amd. Compl. Ex. D-1 at 3, E-1 at 3. Plaintiffs do not challenge any of these specifics with contrary facts; they simply disagree with the outcome. Such policy disagreement or critique of the City's expert consultants' methodology does not substitute for well-pled facts showing a legal deficiency. Because Plaintiffs

have failed to allege facts indicating that the impact fees are disproportionate to the needs of new growth or will be spent in a manner that doesn't benefit new growth, their claim that the Ordinances violate the dual rational nexus requirement remains unsupported by the necessary allegations of ultimate fact.

C. Amended Complaint Fails to Allege Lack of Special Benefit

Plaintiffs' assert that the Ordinance's city-wide application of the impact fees violates the "special benefit" prong of the dual rational nexus test. Am. Compl. ¶¶ 3.31-3.43. Plaintiffs cite *Volusia Cnty. v. Aberdeen at Ormond Beach, L.P.*, 760 So. 2d 126 (Fla. 2000) and *Bd. of Cnty. Commissioners, Santa Rosa Cnty. v. Home Builders Ass'n of W. Florida, Inc.*, 325 So. 3d 981 (Fla. 1st DCA 2021) to argue that the City was required to create smaller, neighborhood-based benefit districts. This argument fundamentally misinterprets and misapplies Florida law by conflating all public services.

The cases Plaintiffs cite are distinguishable and inapplicable to the services at issue here. Both *Aberdeen* and *Santa Rosa* involved *school* impact fees. In *Aberdeen,* the Supreme Court of Florida held that a county-wide school impact fee was unconstitutional as applied to a mobile home park with restrictive covenants prohibiting children. The Court applied the "dual rational nexus" test adopted by the court in *St. Johns County v. Northeast Florida Builders Ass'n, Inc.*, 583 So. 2d 635 (Fla. 1991). Under the "needs" prong of the test, the court determined that because of the park's age restriction, "Aberdeen does not generate any students." *Aberdeen* 760 So. 2d at 136. Again, the court stressed the uniqueness of the case: "[E]xempting deed-restricted adult communities cannot be equated to exempting households that do not have children.... [W]here there is no potential to generate students, there is no impact warranting the imposition of fees." *Id.* at 137. The court also found that the county was unable to satisfy the "benefits" prong

of the dual rational nexus test, "[b]ecause no children can live at Aberdeen, impact fees collected at Aberdeen will not be spent for Aberdeen's benefit, but for the benefit of children living in other developments." *Id.* at 136. The court concluded, "Aberdeen neither contributes to the need for additional schools nor benefits from their construction. Accordingly, the imposition of impact fees as applied to Aberdeen does not satisfy the dual rational nexus test." *Id.*

Plaintiffs allege that the Ordinances fail to confer a "special benefit" on new development because the impact fees are imposed on a city-wide basis. Am. Compl. ¶¶ 3.17, 3.43, 3.55, 3.64. This allegation misunderstands the "special benefit" requirement and fails to plead ultimate facts supporting a claim.

Florida courts have held that impact fees "must confer a special benefit on feepayers in a manner not shared by those not paying the fee." *Contractors & Builders Ass'n of Pinellas Cnty. v. City of Dunedin*, 329 So. 2d 314, 318 (Fla. 1976); *Santa Rosa County,* 325 So. 3d 981, 984 (Fla. 1st DCA 2021). The "special benefit" requirement means that impact fee revenues must be earmarked to provide infrastructure that benefits new development, not that each development must receive individualized, project-specific infrastructure improvements.

City-wide impact fees are permissible when they fund capital improvements throughout the city that benefit new development proportionally. See *Florida Attorney General Opinion 2013-25* (impact fees may be imposed county-wide or city-wide, provided funds are earmarked for infrastructure benefiting new development). Plaintiffs fail to allege any ultimate facts showing that the City's impact fee revenues will not be used to provide fire, park, or transportation infrastructure benefiting new development. Further, Plaintiffs fail to demonstrate that existing deficiencies will be funded by impact fees, beyond mere assertions.

Instead, Plaintiffs cite *Santa Rosa County* for the proposition that city-wide fees are per se invalid. This misreads the case. In *Santa Rosa County*, the court invalidated the school impact fees not because they were county-wide, but because the school district failed to justify a uniform fee rate across geographically distinct areas with materially different infrastructure needs and costs. *Santa Rosa County,* 325 So. 3d at 984. The court found that the school district "did not geographically identify new growth" and instead "generalized the fact that the county was growing" without analyzing whether fee payors in different areas would receive commensurate benefits. *Id.* Here, Plaintiffs do not allege that Palm Coast has geographically distinct areas with materially different fire, park, or transportation infrastructure needs. They do not allege that new development in one area of the city will be charged fees to fund infrastructure exclusively benefiting development in another area. They simply assert, without factual support, that city-wide fees cannot satisfy the special benefit test, a legal conclusion insufficient to survive a motion to dismiss. Palm Coast is a single municipality of relatively uniform character, and Plaintiffs point to no geographic disparity that would make a city-wide fee inherently suspect.

D. Amended Complaint Fails to Allege Lack of Extraordinary Circumstances

Plaintiffs allege that the City improperly invoked "extraordinary circumstances" under § 163.31801(6)(g), Fla. Stat., to exceed statutory phase-in limitations for impact fee increases. Am. Compl. ¶¶ 3.25-3.28. Section 163.31801(6)(g), Fla. Stat., permits a local government to exceed the 50% cap on impact fee increases if it completes a demonstrated-need study within 12 months before adoption, holds at least two public workshops, and obtains a two-thirds vote of the governing body.

Plaintiffs do not allege that the City failed to complete the required study, hold the required workshops, or obtain the required super-majority vote. Instead, they challenge the substantive

conclusions of the City's expert consultants' reports, arguing that "none of the studies even mentioned a definition or 'extraordinary circumstances'" or "evaluated any caselaw dealing with 'extraordinary circumstances.'" Am. Compl. ¶ 3.45. Nothing in Florida Law requires a demonstrated-need study under § 163.31801(g)(1) to include a recitation of case law excerpts, as Plaintiffs suggest. Plaintiff acknowledges that Florida Courts have yet to find a local government's claim of "extraordinary circumstances" under §163.31801(g)(1) as insufficient. Am. Compl. at 3.46. Instead, Plaintiff suggests this Court should apply an "extremely limited" interpretation of the term as it is used in "other caselaw" or contexts. Am. Compl. at 3.46. Plaintiffs bald allegation that the City's findings are not "legally 'extraordinary circumstances'" is without support in law or fact. Am. Compl. ¶ 3.54. This mere legal conclusion is unsupported by any factual allegation of how the finding violated § 163.31801(6). At most, Plaintiffs have expressed an opinion that the City's reasons were not good enough. That is insufficient to state a claim. See, e.g., *W.R. Townsend Contracting, Inc. v. Jensen Civil Const., Inc.,* 728 So. 2d 297, 300 (Fla. 1st DCA 1999) (courts need not credit a claimant's "conclusory allegations, unwarranted deductions or mere legal conclusions" at the motion to dismiss stage).

The City's Parks Report, Fire Report, and Extraordinary Circumstances Study, dated June 2025 (Am. Compl. Ex. F-2) spell out exactly why an increase in the impact fees beyond the phase-in requirements of the Impact Fee Act was necessary. Among other things, in the Transportation context, Palm Coast experienced significant cost inflation in infrastructure since the last fee update: the average road construction cost per mile roughly doubled from about $7 million in 2018 to $16.5 million in 2025. Am. Compl. Ex. F-2 at 4. In addition, updated data showed the City (1) "experienced population growth rates higher than Florida for each of the four time periods evaluated"; (2) "is projected to experience population growth higher than the State of Florida";

and, (3) "experienced significant increases in the cost related to the construction of road and intersection improvments." Am. Compl. Ex. F-2 at 7, 8, 9. Further, the Fire Rescue Report details the "extraordinary cost inflation being experienced by the City" for materials, fire trucks and related apparatus. Am. Compl. Ex. D-1 at 11. The Fire Report finds that "[s]hould no action be taken then the revenue shortfall that would need to be recovered from existing taxpayers ... would be approximately $6.1 million." Am. Compl. Ex. D-1 at 11. Similarly, the Parks Report thoroughly examines the repercussions of rapid population growth and the escalating cost of construction on the City's parks and recreation infrastructure planning. Am. Compl. Ex. E-1 at 9. The Parks Report reveals that without implementing these impact fee increases, the City would face a revenue shortfall of $13.1 million by 2035. Am. Compl. Ex. E-1 at 10.

The Impact Fee Act doesn't prescribe which circumstances are, or are not, sufficiently "extraordinary" for local governments to avoid the phase-in limits of §163.31801(6). The determination of what constitutes "extraordinary circumstances" is intended to be made by local governments as a legislative finding of fact. The Florida legislature, rather than specifying the full scope of circumstances that may be sufficiently "extraordinary", chose to mandate a procedure: requiring a demonstrated-need study, at least two publicly noticed workshops, and a unanimous vote of the governing body. Fla. Stat. § 163.31801(6)(g).

Counts III should be dismissed for failure to state a cause of action for declaratory or injunctive relief. Plaintiffs have failed to allege sufficient ultimate facts demonstrating that the Ordinances violate the Florida Impact Fee Act or Florida Constitution. While § 163.31801(9), Fla. Stat., places the burden of proof on the government in impact fee litigation, that burden applies only after Plaintiffs have successfully pleaded a cause of action. Plaintiffs cannot bypass the

pleading requirements of Rule 1.110 by invoking a statutory burden-shifting provision that applies at trial. Accordingly, counts III and IV should be dismissed.

Count IV is entirely derivative of Count III, seeking injunctive relief for the same alleged violations of the Florida Impact Fee Act rather than declaratory relief. Because Plaintiffs failed to plead sufficient ultimate facts demonstrating any Impact Fee Act violation, Count IV necessarily fails.

I. CONCLUSION

Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted. Counts I and II rest on a fundamental mischaracterization of impact fees as "land development regulations" under Section 28, when in fact they are financial exactions governed exclusively by the Florida Impact Fee Act. Counts III and IV fail because Plaintiffs have not alleged sufficient ultimate facts demonstrating that the Ordinances violate the Florida Impact Fee Act or lack the requisite dual rational nexus; instead, they offer only conclusory allegations and legal conclusions unsupported by factual pleading. Accordingly, dismissal is warranted.

WHEREFORE, Defendant, City of Palm Coast, respectfully requests this Court enter an order dismissing the Amended Complaint and grant such other and further relief as the Court deems just and proper.

CERTIFICATE OF CONFERRAL

I certify that conferral is not required prior to filing this Motion under to Florida Rules of Civil Procedure Rule 1.202.

CERTIFICATE OF SERVICE

I certify that, in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.516, the foregoing document has been filed with the Florida Courts E-Filing Portal System on this 5th day of December, 2025. Accordingly, a copy of the foregoing is being served on this day to the

attorneys or interested parties identified in the e-Portal Electronic Service List, including those listed below, via transmission of Notices of Electronic Filing generated by the e-Portal System.

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