

MARTIN COUNTY, FLORIDA
INTER-OFFICE MEMORANDUM

TO: Maria Jose, M.S.
Planner

DATE: June 11, 2020

FROM: Jim Christ
Planner



SUBJECT: Comprehensive Plan Amendment 2020-03 Aquarius Land Holdings

After a review of the materials received June 11, 2020 the Utilities and Solid Waste Department have the following comments:

BACKGROUND:

Description:

The parcel is on the West side of Willoughby Across the road from Community Drive a proposal to change the sub-policy as follows: "The tract of real property described in the Warranty Deed recorded at OR Book 2157, Page 2403, of the Public Records of Martin County, ~~which is limited to 356,904 square feet of nonresidential use, shall be developed consistent with the assigned future land use designation, and on which residential uses shall not be allowed.~~ provided, however, the net outbound PM peak hour trips generated by all uses shall be limited to 340 trips."

The entire site is 34.96 acres.

Existing Future Land Use: Commercial Office Residential (COR)

Proposed Future Land Use: Commercial Office Residential (COR)

Existing Zoning: COR-2

Proposed Zoning: COR-2

Existing Development: 2 Memory Care facilities 167,269 sq ft on 10.69 acres of the 34.96 total acres.

Utilities: Water and wastewater services for the project will be provided by Martin County Utilities.

Project Coordinator: Maria Jose Planner

Future Potential Development:

Projected Utilities for the Existing Future Land Use:

There is a potential for 356,904 sq. ft. of Commercial Office on the 34.96 acres of Commercial Office Residential (COR).

Projected Utilities for the Proposed text change Use:

There is a potential for approximately 349 single family houses on the 34.96 acres and 365,904 sq. ft. of Commercial Office Residential (COR) Use designation. Adequate treatment plant capacity currently exists to service the proposed Comprehensive Plan Amendment.

COMMENTS:

Utilities Comments:

Potable Water Service is to be provided by the Consolidated Utility Water System Treatment Plants. The Service provider is Martin County. Adequate treatment plant capacity currently exists to service the proposed development. [ref. Code, LDR, s.5.32.D.3.a.(1) and (2) Code, LDR, Art.5, Div.2]

Determination of available capacity:

Permitted Capacity	18.800 MGD
Maximum Day Flow (Past 12 months)	-14.806 MGD
Projects With Service Agreements	<u>-0.592MGD</u>
Available Capacity	3.402 MGD

Sanitary Sewer Service is to be provided by the Consolidated System. The Service provider is Martin County. The interconnected systems of Dixie Park, Martin Downs and Tropical Farms, known as the Consolidated Wastewater System, provides wastewater disposal service to the Martin Downs, Port Salerno and Tropical Farms service areas. [ref. Code, LDR, s.5.32.D.3.b.(1) and (2) Code, LDR, Art.5, Div.2].

Determination of available capacity:

Permitted Capacity	5.900 MGD
Contiguous Three Month Average Daily Flow	-3.405 MGD
Projects With Service Agreements	<u>-0.145 MGD</u>
Available Capacity	3.260 MGD

Sanitary sewer service capacity reservation for this development must be reserved through the execution of a Water and Wastewater Service Agreement with Martin County Utilities. This project is in compliance with the Martin

County Code [ref. Code, LDR, s.5.32.D.1,2.(a)(b) and (c), 3.b.(1)(b) and (2) Code, LDR, Art.5, Div.2].

Wastewater lines of adequate capacity to service the subject development site are in place. This project is in compliance with the Martin County Code [ref. Code, LDR, s.5.32.D.3.b.(3) and (4) Code, LDR, Art.5, Div.2].

Wellfield/Groundwater Protection Comments:

If groundwater or surface water withdrawals are proposed for irrigation, the applicant will be required to submit a South Florida Water Use Permit and may be required to submit groundwater computer model.

JC/jc

Martin County School District

General School Capacity Analysis

This general analysis is completed to meet the development review policies specified in Section 6.2.6 of the Martin County, City of Stuart and Martin County School Board Interlocal Agreement for School Facilities Siting and Planning, and Section 17.7 Public School Facilities Element of the Martin County Comprehensive Plan.

Applicant/Project: Aquarius Land Holdings

Project#: CPA 20-03

Date: 6/23/2020

Applicant Request: CPA – General School Analysis

Student Generation Calculation:

Residential Units	349
Current Student Generation Rate	.221
Elementary	34
Middle	18
High	25
Total Forecasted	77

School Zone Enrollment & Permanent Capacity:

CSA	2019-2020 (as of 10/11/19) Enrollment	2023-2024 COFTE Projected Enrollment	2023-2024 Concurrency LOS Capacity
Stuart Zone – Elementary (Pinewood, JD Parker, Port Salerno)	2199	2282	1978
South Zone – Middle (Anderson Middle)	1028	1065	1150
Stuart Zone – High School (Martin County High)	2173	2375	2160

Note: Enrollment reported from FOCUS, Projections through School District CIP Application

Comments:

This General School Capacity Analysis shall be used in the evaluation of a development proposal, but shall not provide a guarantee that the students from the above referenced project will be assigned to attend the particular school(s) listed. The analysis indicates the middle school enrollment is projected to meet the Concurrency (LOS) Level of Service capacity, however the elementary & high school enrollment may exceed the LOS Capacity.

A School Concurrency Review is completed for Final Site Plan applications that include residential units. At that time a Final Concurrency Determination will be conducted. Mitigation to reach Level of Service (LOS) standards for the School District may need to be remedied based on Final analysis.

Prepared by: **Kimberly Everman, Capital Projects Planning Specialist**

evermak@martinschools.org phone: 772-219-1200 x30220

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

ORDINANCE NUMBER 802

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA,
AMENDING THE FUTURE LAND USE MAP OF THE
MARTIN COUNTY COMPREHENSIVE GROWTH
MANAGEMENT PLAN REGARDING COMPREHENSIVE
PLAN AMENDMENT 08-7, WILLOUGHBY RESEARCH
PARK; PROVIDING FOR CONFLICTING PROVISIONS,
SEVERABILITY, AND APPLICABILITY; PROVIDING
FOR FILING WITH THE DEPARTMENT OF STATE AND
AN EFFECTIVE DATE.**

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161, Florida Statutes, and Chapter 9J-5, Florida Administrative Code, require that each local government prepare and submit a comprehensive plan of the type set out in that Act; and

WHEREAS, the Board of County Commissioners caused a Comprehensive Growth Management Plan to be prepared for the areas of Martin County under its jurisdiction and adopted said Plan by Ordinance Number 373 on February 20, 1990; and

WHEREAS, Section 1.11, Comprehensive Growth Management Plan, and Section 163.3187, Florida Statutes, permit amendments to the Comprehensive Growth Management Plan and provide for amendment procedures; and

WHEREAS, on January 10, 2008 the Local Planning Agency considered the proposed Comprehensive Plan amendment at a duly advertised public hearing; and

WHEREAS, on April 29, 2008 at a duly advertised public hearing, this Board considered the amendment and approved such amendment for transmittal to the Florida Department of Community Affairs; and

WHEREAS, on August 5, 2008 at a duly advertised public hearing this Board considered and addressed the Objections, Recommendations and Comments Report of the Department of Community Affairs; and

WHEREAS, this Board has provided for full public participation in the comprehensive planning and amendment process and has considered and responded to public comments.

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

**PART I. COMPREHENSIVE GROWTH MANAGEMENT PLAN
AMENDMENT #08-7, WILLOUGHBY RESEARCH PARK**

Comprehensive Growth Management Plan Amendment #08-7, Willoughby Research Park, is hereby adopted as follows: The Future Land Use Map is hereby changed from Rural Density to Commercial/Office Residential for 35 acres located north of S.E. Cove Road, west of S.E. Willoughby Boulevard in Port Salerno and further described in Exhibit "A" attached hereto and incorporated by reference.

PART II. CONFLICTING PROVISIONS.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions or parts thereof, and other parts of the Martin County Comprehensive Growth Management Plan in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART III. SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If the ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

PART IV. APPLICABILITY OF ORDINANCE.

This Ordinance shall be applicable throughout the unincorporated area of Martin County.

PART V. FILING WITH DEPARTMENT OF STATE.

The Clerk be and hereby is directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, R.A. Gray Building, Room 101, 500 S. Bronough Street, Tallahassee, Florida, 323990250.

PART VI. EFFECTIVE DATE.

The effective date of this Plan Amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the Plan Amendment in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, development agreements or land uses dependent on this Plan Amendment may be issued or commence before the Plan Amendment has become effective.

DULY PASSED AND ADOPTED THIS 5TH DAY OF AUGUST, 2008.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

BY: Marsha Ewing
MARSHA EWING, CLERK

BY: [Signature]
DOUG SMITH, CHAIR

[Signature]

APPROVED AS TO FORM
AND CORRECTNESS:

BY: [Signature]
STEPHEN FRY,
COUNTY ATTORNEY

EXHIBIT "A"

LEGAL DESCRIPTION

TRACTS 1,2,3, AND 6, BLOCK 66, OF SAINT LUCIE INLET FARMS SUBDIVISION, ACCORDING TO THE PLAT THEREFORE, RECORDED IN PLAT BOOK 1, PAGE 98, OF THE PUBLIC REVORDS OF MARTIN COUNTY, FLORIDA (FORMERLY PALM BEACH COUNTY, FLORIDA), LESS AND EXEPT THELAND DESCRIBED IN OFFICAL REVORDS BOOK 947, PAGE 392; OFFICAL RECORDS BOOK 1492, PAGE 2140 AND OFFICAL RECORDS BOOK 1492, PAGE 2143

PARCEL CONTROL NUMBERS

1414-340-0004-000-7
1414-340-0003-000-0
1414-340-0005-000-4
1414-340-0005-010-7
1414-340-0006-000-1



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 25, 2008

The Honorable Doug Smith, Chairman
Martin County Board of County Commissioners
2401 SE Monterey Road
Stuart, Florida 34994

RECEIVED
SEP 30 2008
GROWTH MANAGEMENT
DEPARTMENT

RE: Martin County Adopted Amendment #08-1

Dear Commissioner Smith:

The Department of Community Affairs has completed its review of the Martin County comprehensive plan amendments (DCA #08-1) adopted on August 5, 2008 by Ordinance Numbers 800, 802 and 803. The Department is issuing a Notice of Intent finding the amendments adopted by Ordinance Numbers 800 and 803 "in compliance" and a Notice of Intent and a Statement of Intent finding the amendment adopted by Ordinance Number 802 "not in compliance," as defined in Section 163.3184, 163.3187, and 163.3189, Florida Statutes. The Notice of Intent has been sent to the *Jupiter Courier/Stuart News Journal* for publication on September 26, 2008.

In our review of the comprehensive plan amendments, the Department determined that Future Land Use amendment CPA 08-7 was not supported by data and analysis to demonstrate that an adequate water supply is available, that the water and wastewater treatment facilities, and transportation facilities have available capacities over the next five years to serve the maximum development potential of the site and maintain the County's adopted level of service standards. Furthermore, the traffic impact analysis submitted with the amendment, assuming development is limited to 365,904 square feet of Office use, identifies needed improvements to State Road 76 that have not been included in a financially feasible 5-Year Schedule of Capital Improvements. An analysis of impacts based on the maximum development potential of the site may identify additional capital improvements.

Any affected person may file a petition with the agency within 21 days after the publication of the Notice of Intent pursuant to Section 163.3184(10), Florida Statutes. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect. In addition, the Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes.

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

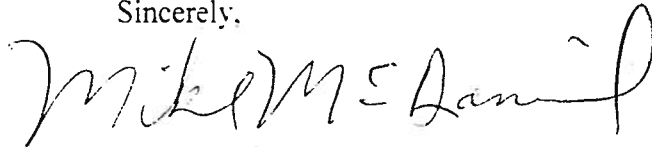
♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

The Honorable Doug Smith, Chairman
September 25, 2008
Page 2

Please note that a copy of the Martin County comprehensive plan amendment (CPA 08-7), the Statement of Intent, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the County Administration Center - Growth Management Department, 2401 SE Monterey Road, Stuart, Florida 34996. In addition, Section 163.3184(8)(c)2, Florida Statutes, requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the agency's Notice of Intent.

If you have any questions, please contact Bob Dennis, Regional Planning Administrator, at (850) 922-1765 for assistance.

Sincerely,



Mike McDaniel
Chief, Office of Comprehensive Planning

MM/skg

Enclosures: Notice of Intent
Statement of Intent

cc: Ms. Nicki van Vonno, AICP, Director, Martin County Growth Management Department
Mr. Michael Busha, AICP, Executive Director, Treasure Coast Regional
Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: MARTIN COUNTY COMPREHENSIVE PLAN AMENDMENT 08-1; ORDINANCE NUMBER 802 AMENDING THE FUTURE LAND USE MAP	Docket No. 08-1-NOI-4301-(A)-(I)-(N)
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STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENT
NOT IN COMPLIANCE

The Florida Department of Community Affairs, pursuant to Rule 9J-11.012(6), *Florida Administrative Code*, hereby issues this Statement of Intent regarding the Comprehensive Plan amendment adopted by Martin County in Ordinance Number 802 on August 5, 2008. The Department finds this Comprehensive Plan amendment "not in compliance," as defined in Section 163.3184(1)(b), *Florida Statutes*. The Department finds that this Comprehensive Plan amendment is not in compliance because it is not consistent with Chapter 163, Part II, *Florida Statutes*, the State Comprehensive Plan, and Rule 9J-5, *Florida Administrative Code*, for the following reasons:

I. FUTURE LAND USE ELEMENT

A. Inconsistent provisions. The inconsistent provisions of the Comprehensive Plan amendment under this subject heading follow:

1. Ordinance Number 802 amends the Future Land Use Map designation on 35± acres from Rural Density (1 unit/2 acres) to Commercial/Office/Residential (10 units/1 acre and a maximum building coverage of 0.40 and a maximum height of 30 feet). The County did not evaluate the maximum development potential of the site based on the Commercial/Office/Residential density and intensity standards. Instead, the potable water, wastewater and transportation analysis was based on 365,904 square feet of Office development.

Therefore, the County has not demonstrated that water supplies, water and wastewater treatment facilities and area roadways have adequate capacities to meet the demand generated from developing the site at the maximum allowed, including Cove Road, Interstate 95 and U.S. 1.

Even if the site is limited to developing only 365,904 square feet of Office use, the traffic analysis indicates that improvements are needed to address impacts on State Road 76. The County indicates that these improvements will be privately funded, but these improvements are not guaranteed in a development agreement or included in a financially feasible 5-Year Schedule of Capital Improvements.

2. The Department specifically finds this Comprehensive Plan amendment is inconsistent with the following rule and statutory provisions: Rules 9J-5.005(2), 9J-5.006(1), (2), (3)(b)1, (3)(c)3, 9J-5.011(1), (2)(b)1, 2, (2)(c)1, 2, 9J-5.016(1), (2), (3)(b)1, 3, 4, 5, (3)(c)1, 6, 8, and (4), *Florida Administrative Code*, and Sections 163.3177(1), (3), (6)(a), 6(c), (6)(j) and (8), *Florida Statutes*.

B. Recommended remedial actions. The above inconsistencies may be remedied by taking the following actions:

1. Include additional data and analysis to support and demonstrate that and adequate water supply is available, that the water and wastewater treatment facilities and transportation facilities have available capacities over the next five years to serve the maximum development potential of the site and maintain the County's adopted level of service standards. For evaluating roadway impacts, apply a professionally accepted methodology that is consistent

with Chapter 163, Part II, F.S. and Rule 9J-5, F.A.C. If the existing facilities are not available to address the impacts anticipated from developing this site over the next five years, then the County must include capital improvements to address these impacts in a financially feasible Five-Year Schedule of Capital Improvements.

The revised traffic impact analysis should consider impacts on Interstate 95, Cove Road, State Road 76 and U.S. 1 based on the maximum development potential of the site and mitigate for any impacts that will result in a level of service that falls below the adopted level of service standards for these roads.

Alternatively, if it is the County's intention to limit the development of the site to 365,904 square feet of Office use, then a policy must be included in the comprehensive plan limiting the development to this specified amount and a notation included on the Future Land Use Map to indicate this development limitation.

2. A resolution to issue 1 in Section A, above, will resolve the inconsistencies with Chapter 9J-5, *Florida Administrative Code*, and Chapter 163, Part II, *Florida Statutes*.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions. The inconsistent provisions of the plan amendment under this subject heading are as follows:

The Comprehensive Plan amendment is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, *Florida Statutes*, including the following provisions:

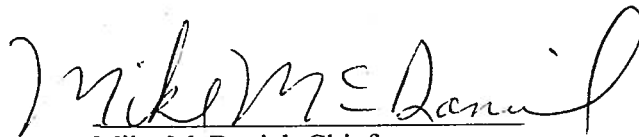
1. **Water Resources.** The amendment is inconsistent with the Goal set forth in Paragraph 187.201(7)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(7)(b)3 and 5, *Florida Statutes*;
2. **Land Use.** The amendment is inconsistent with the Goal set forth in Paragraph 187.201(15)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(15)(b)1, 3, and 6, *Florida Statutes*;
3. **Public Facilities.** The amendment is inconsistent with the Goal set forth in Paragraph 187.201(17)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(17)(b)3, 4, 5, 6, 7, and 9, *Florida Statutes*;
4. **Transportation.** The amendment is inconsistent with the Goal set forth in Paragraph 187.201(19)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(19)(b)2, 3, 9, 13, and 15, *Florida Statutes*; and
5. **Plan Implementation.** The amendments are inconsistent with the Goal set forth in Paragraph 187.201(25)(a), *Florida Statutes*, and the Policy set forth in Subparagraphs 187.201(25)(b)7, *Florida Statutes*.

B. Recommended remedial action. These inconsistencies may be remedied by revising the Comprehensive Plan amendment as described above in Section I.B.

CONCLUSIONS

1. The Comprehensive Plan amendment is not consistent with the State Comprehensive Plan.
2. The Comprehensive Plan amendment is not consistent with Chapter 9J-5, *Florida Administrative Code*.
3. The Comprehensive Plan amendment is not consistent with the requirements of Chapter 163, Part II, *Florida Statutes*.
4. The Comprehensive Plan amendment is not "in compliance," as defined in Section 163.3184(1)(b) *Florida Statutes*.
5. In order to bring the Comprehensive Plan amendment into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 25th day of September 2008, at Tallahassee, Florida.



Mike McDaniel, Chief
Office of Comprehensive Planning
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
MARTIN COUNTY
AMENDMENTS ADOPTED BY
ORDINANCE NO. 802
NOT IN COMPLIANCE,
AND THE REMAINING AMENDMENTS ADOPTED PURSUANT TO
ORDINANCE NOS. 800 AND 803
ON AUGUST 5, 2008
IN COMPLIANCE
DOCKET NO. 08-1-NOI-4301-(A)-(I)-(N)

The Department gives notice of its intent to find the State of Florida Department of Community Affairs Notice of Intent to find the Martin County amendments adopted by Ordinance 802 on August 5, 2008, Not In Compliance, and the remaining amendments adopted pursuant to Ordinance Nos. 800 and 803 on August 5, 2008, In Compliance, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

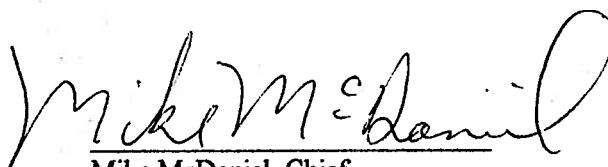
The adopted Martin County Comprehensive Plan Amendments, the Department's Objections, Recommendations, and Comments Report (if any), and the Department's Statement of Intent to find the Comprehensive Plan Amendments Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Martin County Administration Center, Growth Management Department, 2401 S.E. Monterey Road, Stuart, Florida 34996.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the above referenced amendments to the Martin County Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice; a copy must be mailed or delivered to the local government and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

This Notice of Intent and the Statement of Intent for those amendment(s) found Not In Compliance will be forwarded by petition to the Division of Administrative Hearings (DOAH) of the Department of Management Services for the scheduling of an Administrative Hearing pursuant to Sections 120.569 and 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony on the noncompliance issues alleged by the Department in its Objections, Recommendations, and Comments Report and Statement of Intent in order to secure a recommended order for forwarding to the Administration Commission.

Affected persons may petition to intervene in either proceeding referenced above. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. Pursuant to Section 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan amendment not in compliance in a petition to intervene filed more than twenty one (21) days after publication of this notice unless the petitioner establishes good cause for not alleging such new issues within the twenty one (21) day time period. The petition for intervention shall be filed at DOAH, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



Mike McDaniel, Chief
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

ORDINANCE NUMBER 822

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA,
REGARDING COMPREHENSIVE PLAN AMENDMENT
08-7, WILLOUGHBY RESEARCH PARK, AMENDING THE
FUTURE LAND USE MAP OF THE MARTIN COUNTY
COMPREHENSIVE GROWTH MANAGEMENT PLAN
CONSISTENT WITH A SETTLEMENT AGREEMENT
WITH THE FLORIDA DEPARTMENT OF COMMUNITY
AFFAIRS; PROVIDING FOR CONFLICTING
PROVISIONS, SEVERABILITY, AND APPLICABILITY;
PROVIDING FOR FILING WITH THE DEPARTMENT OF
STATE, AND AN EFFECTIVE DATE.**

WHEREAS, on April 29, 2008 at a duly advertised public hearing, this Board considered proposed Comprehensive Plan Amendment 08-7, Willoughby Research Park, and approved such amendment for transmittal to the Florida Department of Community Affairs; and

WHEREAS, on August 5, 2008 at a duly advertised public hearing this Board considered and addressed the Objections, Recommendations and Comments Report of the Department of Community Affairs and adopted Ordinance Number 802, enacting amendment 08-7; and

WHEREAS, the Department of Community Affairs raised objections in its Notice of Intent issued on September 25, 2008; and

WHEREAS, this Board has determined that changes agreed to in the Stipulated Settlement Agreement between Martin County and the Department of Community Affairs are appropriate to address the concerns raised in the Department's Notice of Intent.

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

**PART I. COMPREHENSIVE GROWTH MANAGEMENT PLAN
AMENDMENT #08-7, WILLOUGHBY RESEARCH PARK**

Comprehensive Growth Management Plan Amendment #08-7, Willoughby Research Park, is hereby amended by revising Section 4.4.A.3.e., Comprehensive Growth Management Plan, Martin County Code, as set forth in Exhibit "A" attached hereto and incorporated by reference. Except for the revisions to Section 4.4.A.3.e., ordinance #802 shall remain unchanged.

PART II. CONFLICTING PROVISIONS.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions or parts thereof, and other parts of the Martin County Comprehensive Growth Management Plan in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART III. SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If the ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

PART IV. APPLICABILITY OF ORDINANCE.

This Ordinance shall be applicable throughout the unincorporated area of Martin County.

PART V. FILING WITH DEPARTMENT OF STATE.

The Clerk be and hereby is directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code, Department of State, R.A. Gray Building, Room 101, 500 S. Bronough Street, Tallahassee, Florida, 323990250.

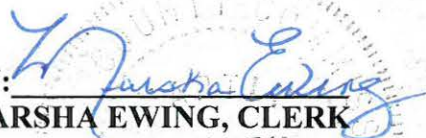
PART VI. EFFECTIVE DATE.

The effective date of this Plan Amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the Plan Amendment in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, development agreements or land uses dependent on this Plan Amendment may be issued or commence before the Plan Amendment has become effective.

DULY PASSED AND ADOPTED THIS 19TH DAY OF MAY, 2009.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

BY: 
MARSHA EWING, CLERK

BY: 
SUSAN VALLIERE, CHAIR

APPROVED AS TO FORM
AND CORRECTNESS:

BY: 
for STEPHEN FRY,
COUNTY ATTORNEY

EXHIBIT "A"

FUTURE LAND USE ELEMENT

(Added text underlined; deleted text ~~overstruck~~)

Section 4.4. Goals, objectives and policies.

4.4.A. *Goal (fiscal efficiency and quality of life).* Martin County shall manage growth and development in a fiscally efficient manner which is consistent with the capabilities of the natural and manmade systems and maintains quality of life standards acceptable to its citizens.

...
3. *Objective.* Martin County shall establish a "concurrency management system" which will establish the procedures and/or process that the county government will utilize to assure that no development orders or permits will be issued which result in a reduction of the adopted level of service standards of this Growth Management Plan at the time that the impact of development occurs.

...
e. *Policy:* All requests for amendments to the future land use maps shall include a general analysis of the availability and adequacy of public facilities and the level of services required for public facilities for the proposed land uses. This analysis shall address, at a minimum, the availability of category A and category C service facilities as defined in the Capital Improvements Element. No amendment shall be approved unless present or planned public facilities and services will be capable of meeting the adopted level of service standards of this Growth Management Plan for the proposed land uses. The Capital Improvements Element, ~~or~~ other relevant plan provisions, and the ~~future~~ Land Use Maps may be amended concurrently to satisfy this criterion. The intent of this provision is to insure that the elements of ~~the Comprehensive~~ this Growth Management Plan remain internally consistent.

Compliance with this provision is in addition to, and not in lieu of, compliance with the provisions of Martin County's Concurrency Management System. The granting of a map amendment under this provision does not confer any vested rights and will not stop the County from denying subsequent requests for development orders based on the application of a concurrency review at the time such orders are sought.

Martin County may adopt sub-area development restrictions for a particular site where public facilities and services, such as arterial and collector roads, regional water supply, regional wastewater treatment/disposal, surface water management, solid waste collection/disposal, parks and recreational facilities, and schools, are constrained and incapable of meeting the needs of the site if developed to the fullest capacity allowed under subsection 4.4.M. of this Growth Management Plan. The master or final site plan for a site that is subject to such sub-area development restrictions shall specify the maximum amount and type of

development allowed. Sub-area development restrictions apply to the following sites:

1. The tract of real property described in the Warranty Deed recorded at OR Book 2157, Page 2403, of the Public Records of Martin County, which is limited to 365,904 square feet of non-residential use, consistent with the assigned future land use designation, and on which residential uses shall not be allowed.

ATTACHED IS MARTIN COUNTY ORDINANCE NO. 822, Comprehensive Plan Amendment 08-7, Willoughby Research Park, which was adopted by the Martin County Board of County Commissioners on May 19, 2009, and filed with the Department of State on May 26, 2008. The effective date shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the Plan Amendment in compliance in accordance with Section 163.3184, Fla. Stat., whichever occurs earlier.

Policy 4.13A.8(1), describing COR future land use designation

Policy 4.13A.8. Commercial development. The Future Land Use Map identifies the allocation of commercial land for offices and services, limited commercial, general commercial and marine waterfront commercial activities. The allocation is compatible with the goals and objectives in the CGMP and consistent with supportive research and analysis.

(1) *Commercial Office/Residential development (COR).* Martin County shall establish policies and criteria to guide mixed-use development. Commercial Office/Residential development shall be allocated to accessible sites adjacent to major thoroughfares. It shall also serve as a transitional use separating more intensive commercial uses from residential development. Office and residential development may be allocated along the outer fringe of core commercial areas where such development may encourage reinvestment in declining residential areas adjacent to commercial core areas. The COR future land use designation shall also be allocated to areas appropriately suited for Traditional Neighborhood Development, described under Goal 4.3. The development provisions for the standard COR zoning districts and the PUD zoning district are expressed below:

(a) Development in the Commercial Office/Residential future land use designation shall be restricted to professional and business offices, limited service establishments, financial institutions, live-work units, residential development or any combination of these uses. Freestanding retail sales and service establishments shall be excluded from these areas. However, restaurants, certain service commercial uses, and limited commercial uses, as identified in the Land Development Regulations, may occupy 25 percent of the commercial square footage in a building.

Residential storage facilities may be approved in areas designated COR, and the Land Development Regulations shall include criteria for review of such uses. However, the building shall be restricted to structures with small modules adaptive exclusively to storage of personal items of residential clients. Commercial tenants shall be expressly prohibited. The facility shall be designed to blend harmoniously with residential structures.

The intensity of lot use, defined as floor area ratio (FAR), shall be governed by the parking standards of the Land Development Regulations. The maximum building coverage shall be 40 percent, and the minimum net lot size permitted in COR districts shall be 10,000 square feet. The minimum open space shall be 40 percent and the maximum building height shall be 30 feet. Multiple-family residential uses are encouraged to develop in areas designated for office development at densities compatible with criteria cited in Policy 4.13A.7.(5) for High Density Residential development. The Land Development Regulations shall require appropriate landscaping and screening, including a vegetative berm system where feasible. Plant material and a decorative fence or wall shall be

used to assure compatibility between established residential uses and proposed office developments.

A bed and breakfast or other facilities for transient lodging, catering to seasonal residents, shall be permitted. Kitchen facilities shall be permitted to accommodate occupants visiting for periods exceeding the general motel trip duration of one to four nights. Approved transient lodging facilities existing as of the effective date of the CGMP shall be considered permitted in such an area.

Landscaping, screening, buffering and similar design techniques shall be used to assure a smooth transition between residential structure types and densities.

Residential use shall be allowed in the COR future land use designation as part of a mixed-use project as allowed under Goal 4.3 in any of the seven CRAs designated in Policy 4.2B.4. Residential densities shall be as provided in Policy 4.3A.3.