

A. Application Information

JEREMY AND KATHERINE OAKEY REZONING

Applicant:	Jeremy and Katherine Oakey,
Property Owner:	Jeremy and Katherine Oakey
Agent for the Applicant:	McCarthy, Summers, Wood, Norman, Melby & Schultz P.A.
County Project Coordinator:	Brian Elam, Senior Planner
Growth Management Director:	Paul Schilling
Project Number:	O041-001
Application Type and Number:	DEV2022020013
Report Number:	2022_0413_O041-001_STAFF_DRT_FINAL
Application Received:	02/25/2022
Transmitted:	03/03/2022
Date of Report:	04/13/2022
LPA Meeting:	05/05/2022
BCC Meeting:	05/17/2022

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B. Project description and analysis

This is a request by Jeremy and Katherine Oakey (O041-001) for a proposed amendment to the county zoning atlas for an residential district designation (Section 3.2.E, LDR). The proposed amendment is to change the existing zoning district from the WE-1, Waterfront Estate District to RE-1/2A, Residential Estate District, or the most appropriate zoning district. The approximate 1.23-acre parcel of land is located at 2865 SE Saint Lucie Boulevard in Stuart. Included with this application is a request for a Certificate of Public Facilities Exemption (Section 5.32.B.3.f.(7), LDR).

The current zoning on the property is WE-1, Waterfront Estate District, which is a Category “B” district. The WE-1 zoning district is consistent with the future land use designation. Therefore, the request to rezone this property is considered non-mandatory.

There is one (1) standard Category “A” zoning district that is available to implement the Estate Density 2UPA land use policies of the CGMP, which is RE-1/2A, Residential Estate District. In addition to the standard zoning district, the PUD (Planned Unit Development) District is also available as another option. The PUD District offers more design flexibility to applicants for proposed projects. In exchange the district requires additional benefits to the County and more controls by the County.

The following tables compare the permitted uses and the development standards for the existing WE-1 and proposed RE-1/2A zoning districts.

Table 1 Permitted Uses (Excerpted from LDR Tables 3.11.1 & 3.11.3)

	USE CATEGORY	WE-1	RE-1/2A
Residential Uses	Modular homes	P	P
	Single-family detached dwellings	P	P
Public and Institutional Uses	Community centers	P	P
	Educational institutions	P	P
	Neighborhood assisted residences with six or fewer residents	P	P
	Neighborhood boat launches		P
	Places of worship	P	P
	Protective and emergency services	P	P
	Public libraries	P	P
	Public parks and recreation areas, active	P	P
	Public parks and recreation areas, passive	P	P
	Recycling drop-off centers		P
	Utilities	P	P
Commercial and Business Uses	Bed and breakfast inns	P	P
	Commercial day care	P	P
	Family day care	P	P
	Golf courses	P	P

Development Standards

Table 2 Development Standards (Excerpt from LDR, Table 3.12.1 (2021))

Category	Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width (ft)	Max. Res. Density (upa)	Max. Hotel Density (upa)	Max Building Coverage (%)	Max. Height (ft)/(Stories)	Min. Open Space (%)	Other Req. (footnote)
A	RE-1/2 A	21,780	100	2.00	–	–	30	50	–
B	WE-1	30,000	100	(a)	–	35	30/2	50	–

(a) Maximum residential density shall be one single-family residential dwelling unit per lawfully established lot.

Table 3 Structure Setbacks (Excerpt from LDR, Table 3.12.2 (2021))

Category	Zoning District	Front/by story (ft.)				Rear/by story (ft.)				Side/by story (ft.)			
		1	2	3	4	1	2	3	4	1	2	3	4
A	RE-1/2A	25	25	25	25	15 (30)*	15 (30)*	15 (30)*	15 (30)*	15	15	15	15
B	WE-1	35 (g)	35 (g)	–	–	50 (g)	50 (g)	–	–	15	15	–	–

* Lots abutting navigable waters must meet the shoreline protection setbacks. The Oakey property was verified as a lot of record prior to April 1st, 1982. The Oakey property is 1.2260 acres and so is greater than one acre and less than two acres. Article 4 of the LDR reads:

4.3.A.6.

For residential lots of record created prior to April 1, 1982 with an area of more than one acre but not more than two acres, with wetlands that abut or connect to the estuaries or their navigable tributaries, the wetland buffer zone may be reduced to less than 75 feet but shall not be reduced to less than 25 feet for either primary or accessory structures. New principal structures on lots shall maintain a wetland buffer zone equal to or greater than the average wetland buffer and Shoreline Protection Zone of the nearest principal residences on adjacent lots. The average Shoreline Protection Zone or wetland buffer of the nearest principal residences on adjacent lots shall be determined by measuring from the point of each of the existing principal residences nearest to mean high water.

- a. Native wetland and upland vegetation in the wetland and wetland buffer shall be maintained and the 25-foot buffer shall be exceeded if the lot size is large enough to allow it and the larger buffer zone conforms to the neighborhood pattern. If a preponderance of native vegetation is absent throughout the wetland buffer, there is no requirement to replant with this material. Invasive exotic vegetation shall be removed from the wetland and wetland buffer as part of any permit approval on the property.

A waiver application is required for this determination.

Jeremy and Katherine Oakey have received an environmental waiver from the Growth Management department to reduce the wetland buffer to 30 feet with no additional construction setbacks (Waiver application GMD2021040243). The rear setbacks for this property are 30 feet. [Martin County, Fla., LDR Section 4.3.A.6 (2018)]

(g) *In the WE-1 district, wherever the lot abuts the Atlantic Ocean, the river or a man-made waterway, there shall be a minimum 50-foot setback from the mean high-water line. Where existing principal residences on adjacent lots are set back more than 50 feet from the mean high water line, the minimum*

setback from the mean high water line shall be the mean setback of the nearest principal residences on adjacent lots, or , where there is no principal residence within 1,000 feet, the minimum setback from the mean high water line shall be 50 feet. Accessory structures which are not roofed or enclosed by walls or screening shall only be subject to the minimum 50-foot setback from the mean high-water line.

Standards for Amendments to the Zoning Atlas

1. The Comprehensive Growth Management Plan (CGMP) states in Chapter 4, Section 4.4: “Goal 4.4.: To eliminate or reduce uses of land that are inconsistent with community character or desired future land uses.” And, in Objective 4.4A. “To eliminate inconsistencies between the FLUM and the zoning maps and regulations.”
2. The Martin County Land Development Regulations (LDR), Article 3, Section 3.2 E.1 provides the following “Standards for amendments to the Zoning Atlas.”

The Future Land Use Map of the CGMP establishes the optimum overall distribution of land uses. The CGMP also establishes a series of land use categories which provide, among other things, overall density and intensity limits. The Future Land Use Map shall not be construed to mean that every parcel is guaranteed the maximum density and intensity possible pursuant to the CGMP and these Land Development Regulations. All goals, objectives and policies of the CGMP shall be considered when a proposed rezoning is considered. The County shall have the discretion to decide that the development allowed on any given parcel of land shall be more limited than the maximum allowable under the assigned Future Land Use Category; provided, however, that the County shall approve some development that is consistent with the CGMP, and the decision is fairly debatable or is supported by substantial, competent evidence depending on the fundamental nature of the proceeding. If upon reviewing a proposed rezoning request the County determines that the Future Land Use designation of the CGMP is inappropriate, the County may deny such rezoning request and initiate an appropriate amendment to the CGMP.

a. Whether the proposed amendment is consistent with all applicable provisions of the Comprehensive Plan; and,

The requested RE-1/2A Zoning District implements the Estate Density 2UPA Future Land Use policies of the CGMP. The granting of a zoning change to the RE-1/2A Zoning District by the County will be consistent with the policies set forth in the CGMP.

b. Whether the proposed amendment is consistent with all applicable provisions of the LDR; and,

Zoning implementation policies and requirements are contained in Article 3, Zoning Regulations, Land Development Regulations, Martin County Code. Pursuant to Article 3 there is 1 “straight” Category A zoning district available to implement the Estate Density 2UPA future land use classification, which is RE-1/2A, Residential Estate District. Therefore, rezoning the subject property to the RE-1/2A Zoning District is consistent with the Comprehensive Plan. In addition to the “straight” zoning district, the PUD (Planned Unit Development) District is also available as another option. Pursuant to Section 3.10.B., LDR, the RE-1/2A district is intended to implement the policies of the CGMP for lands designated Estate District up to two units per acre on the Future Land Use Map of the CGMP. Therefore, rezoning the subject property to the RE-1/2A Zoning District is consistent with the Land Development Regulations. The granting of a zoning change by the County does not exempt the applicant from any of the County’s Land Development Regulations. The applicant must demonstrate full compliance with all regulations prior to any Development Order approval

action taken by the County.

- c. ***Whether the proposed district amendment is compatible with the character of the existing land uses in the adjacent and surrounding area and the peculiar suitability of the property for the proposed zoning use; and,***

The subject site is located at 2865 SE Saint Lucie Boulevard in Stuart.

The property is not in a Community Redevelopment Area.

The 1.23-acre property related to the zoning request corresponds to ½ of lot W53 of the Golden Gate Plat dated March 4th, 1925. This is a waterfront property with the NNE side abutting West Lake which is connected from the west by canals and to the Saint Lucie River that is approximately ¼ mile to the east.

Over a dozen parcels, within a mile of this property, along the Saint Lucie River have converted from the Category “B” WE-1 zoning district to “A” RE-1/2A Residential Estate district.

- d. ***Whether and to what extent there are documented changed conditions in the area; and,***

The pattern of development which has focused on residential uses is well established. A review of historical aerials indicate that conditions have not substantially changed in the area since the adoption of the County’s Future Land Use Map in 1982.

- e. ***Whether and to what extent the proposed amendment would result in demands on public facilities; and,***

The property is located within the Primary Urban Services District. As such, the full range of urban services at service levels established by the CGMP is available for the property. The request to rezone does not increase the intensity or uses of the Future Land Use Designation therefore, the rezoning to RE-1/2A, Residential Estate District does not increase the demands on Public Facilities.

- f. ***Whether and to what extent the proposed amendment would result in a logical, timely and orderly development pattern which conserves the value of existing development and is an appropriate use of the county's resources; and,***

The proposed amendment to the zoning atlas is consistent with the Estate Density 2UPA assigned to the Future Land Use Map in 1982. The permitted uses and Land Development regulations pertaining to the RE-1/2A Zoning District are well suited for the area and will conserve the value and development pattern that is well established.

- g. ***Consideration of the facts presented at the public hearings.***

The subject application requires a public hearing before the Local Planning Agency, who will make a recommendation on the request; and, before the Board of County Commissioners, who will take final action on the request. The two hearings will provide the public an opportunity to participate in the review and decision-making process.

C. Staff recommendation

The specific findings and conclusion of each review agency related to this request are identified in Sections F through T of this report. The current review status for each agency is as follows:

Section	Division or Department	Reviewer	Phone	Assessment
F	Comprehensive Plan	Brian Elam	288-5501	Comply
G	Development Review	Brian Elam	288-5501	Comply

H	County Attorney	Krista Storey	288-5923	Review Ongoing
I	Adequate Public Facilities	Brian Elam	288-5501	Exemption

Staff has reviewed this petition for rezoning of property from a Category “B” zoning district to a Category “A” zoning district designation. The Category “A” zoning districts were specifically designed to implement the CGMP. Staff has determined that the petition has been submitted and reviewed consistent with the procedural requirements of LDR, Article 10 and is in compliance with the substantive provisions of LDR, Article 3. The Board is advised that this application is in order and qualifies for an action of approval.

D. Review Board action

This application is classified as an amendment to the official zoning atlas. Pursuant to LDR, Article 10, Section 10.3.B., Martin County, Fla. (2019), a review of this application at a public hearing is required by the Local Planning Agency (LPA), which shall provide a recommendation for the Board’s consideration. And, pursuant to LDR, Article 10, Section 10.5.F.9, Martin County, Fla. (2019), final action on this request for an amendment to the official zoning atlas is required by the Board of County Commissioners (BCC) at a public hearing.

E. Location and site information

Parcel number: 37-38-41-007-500-00530-7 (373841007500005307)
Parcel address: 2865 SE Saint Lucie Boulevard, Stuart, FL 34997
Existing Zoning: WE-1, Waterfront Estates District
Future land use: Estate Density up to 2 units per acre
Gross area of site: 1.23 acres

Figure 1 Location Map



Figure 2 Subject Site 2021 Aerial



Figure 3 Local Area 2021 Aerial



Adjacent existing or proposed development:

- To the north: Single Family Residential (across West Lake)
- To the south: Single Family Residential (across SE Saint Lucie Boulevard)
- To the east: Single Family Residential
- To the west: Single Family Residential

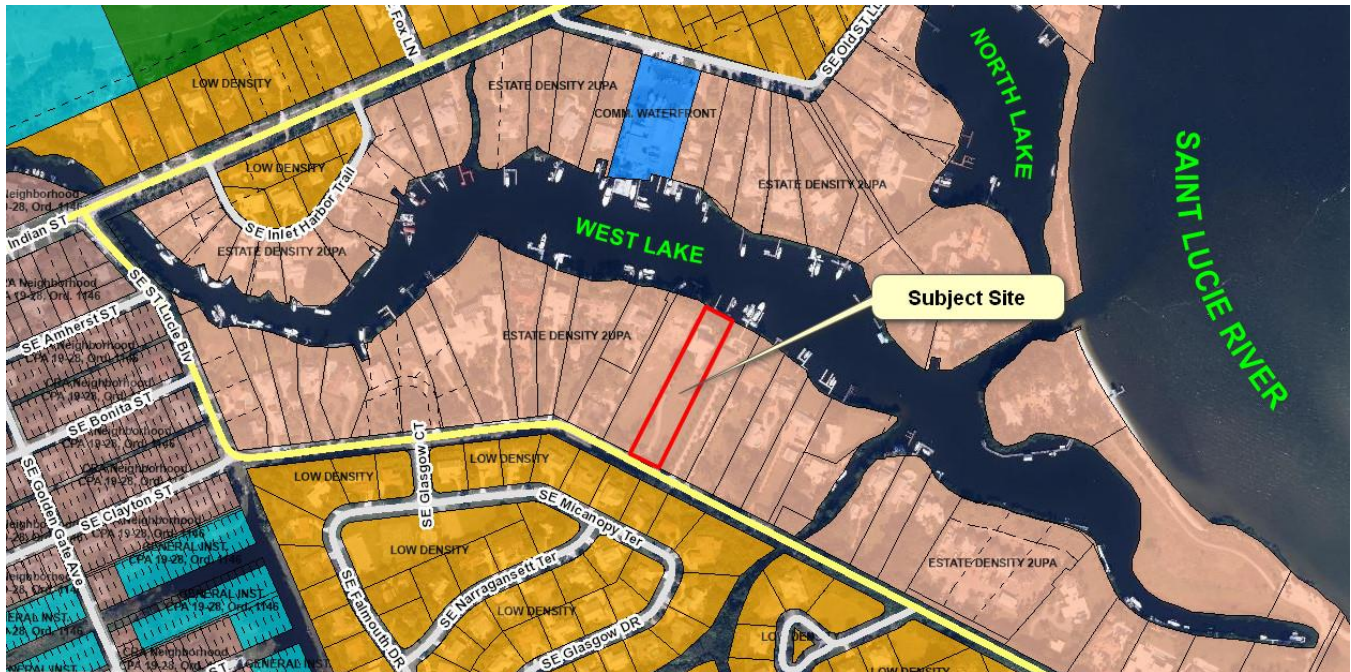
Figure 4 Zoning Atlas Map



Zoning district designations of abutting properties:

- To the north: WE-1, Waterfront Estates District (across West Lake)
- To the south: R-1C, R-1A Single-Family Residential Districts (across SE Saint Lucie Boulevard)
- To the east: WE-1, Waterfront Estates District
- To the west: WE-1, Waterfront Estates District

Figure 5 Future Land Use Map



Future land use designations of abutting properties:

- To the north: Estate Density 2UPA (across West Lake)
- To the south: Low Density (across SE Saint Lucie Boulevard)
- To the east: Estate Density 2UPA (across West Lake)
- To the west: Estate Density 2UPA (across West Lake)

F. Determination of compliance with Comprehensive Growth Management Plan requirements - Growth Management Department

Findings of Compliance:

The Growth Management Department Development Review Division staff has reviewed the application and finds it in compliance with the applicable regulations. There are no unresolved Comprehensive Growth Management Plan requirements issues associated with this application. [Martin County, Fla., CGMP Section 4.4A.1 (2016)]

G. Determination of compliance with land use, site design standards, zoning, and procedural requirements - Growth Management Department

The Growth Management Department Development Review Division staff has reviewed the application and, pursuant to the analysis provided in Section B of this report, finds this application in compliance with the applicable regulations. There are no unresolved land use, site design standards, zoning and procedural requirements issues associated with this application.

Additional Information:

Information #1:

Notice of A Public Hearing

The notice of a public hearing regarding development applications shall be mailed at least 14 calendar

days prior to the public hearing by the applicant to all owners of real property located within 500 feet of the boundaries of the affected property. [Martin County, Fla., LDR Section 10.6.E. (2019)]

Information #2:

Notice(s) of public hearings regarding development applications shall be published by the County at least 14 days prior to the date of the public hearing in the legal advertisement section of a newspaper of general circulation in Martin County. The applicant shall reimburse the County for the cost(s) of the newspaper ad(s) as a post approval requirement for the application. [Martin County, Fla., LDR Section 10.6.D. (2019)]

Information #3:

Based upon the staff findings of compliance, this application will be scheduled for the next LPA meeting, and following that hearing will be scheduled for the next BCC meeting dependent upon the County's scheduling policy.

H. Determination of compliance with legal requirements - County Attorney's Office

Review Ongoing

I. Determination of compliance with the adequate public facilities requirements - responsible departments

The review for compliance with the standards for a Certificate of Adequate Public Facilities Exemption for development demonstrates that no additional impacts on public facilities were created in accordance with Section 5.32.B., LDR, Martin County, Fla. (2016). Exempted development will be treated as committed development for which the County assures concurrency.

Examples of developments that do not create additional impact on public facilities include:

- A. Additions to nonresidential uses that do not create additional impact on public facilities;
- B. Changes in use of property when the new use does not increase the impact on public facilities over the pre-existing use, except that no change in use will be considered exempt when the preexisting use has been discontinued for two years or more;
- C. Zoning district changes to the district of lowest density or intensity necessary to achieve consistency with the Comprehensive Growth Management Plan;
- D. Boundary plats which permit no site development.

J. Post-approval requirements

Approval of the development order is conditioned upon the applicant's submittal of all required documents, executed where appropriate, to the Growth Management Department (GMD), including unpaid fees, within sixty (60) days of the final action granting approval.

Item #1:

Post Approval Fees: The applicant is required to pay all remaining fees when submitting the post approval packet. If an extension is granted, the fees must be paid within 60 days from the date of the development order. Checks should be made payable to Martin County Board of County Commissioners.

Item #2:

Recording Costs: The applicant is responsible for all recording costs. The Growth Management Department will calculate the recording costs and contact the applicant with the payment amount required. Checks should be made payable to the Martin County Clerk of Court.

K. Local, State, and Federal Permits

No Local, State and Federal Permits are applicable to a rezoning action which does not permit any development activities.

L. Fees

A non-mandatory zoning change fees for the development order will be determined and billed subsequent to the public hearing. Fees for this application are calculated as follows:

<i>Fee type:</i>	<i>Fee amount:</i>	<i>Fee payment:</i>	<i>Balance:</i>
Application review fees:	\$3,115.00	\$3,115.00	\$0.00
Advertising fees*:	TBD		
Recording fees**:	TBD		

* Advertising fees will be determined once the ads have been placed and billed to the County.

** Recording fees will be identified on the post approval checklist

M. General application information

Applicant: Jeremy and Katherine Oakey
2865 SE Saint Lucie Boulevard
Stuart, FL 34997

Agent: McCarthy, Summers, Wood, Norman, Melby & Schultz, P.A.
Christen Spake, Esquire
2400 SE Federal Highway, 4th Floor
Stuart, FL 34994

N. Acronyms

ADA	Americans with Disability Act
AHJ	Authority Having Jurisdiction
ARDP	Active Residential Development Preference
BCC	Board of County Commissioners
CGMP	Comprehensive Growth Management Plan
CIE	Capital Improvements Element
CIP	Capital Improvements Plan
FACBC	Florida Accessibility Code for Building Construction
FDEP	Florida Department of Environmental Protection
FDOT	Florida Department of Transportation
LDR	Land Development Regulations
LPA	Local Planning Agency
MCC	Martin County Code
MCHD	Martin County Health Department
NFPA	National Fire Protection Association
SFWMD	South Florida Water Management District
W/WWSA	Water/Wastewater Service Agreement