



Legislation Details (With Text)

File #: 23-0810

Type: Public Hearing **Status:** Agenda Ready

In control: Board of County Commissioners

On agenda: 6/20/2023 **Final action:**

Title: LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT (CPA) 23-02, HOBE SOUND STORAGE

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1_Staff Report.pdf, 2. 2_Application Package.pdf, 3. 3_Draft Ordinance.pdf, 4. 4_Exhibit A.pdf, 5. 5_Notice to Surrounding Owners & Affidavit.pdf, 6. 6_Sign Certification.pdf, 7. Martin County Disclosure of Interest Page - Notarized.pdf, 8. Martin County Stephen Bable Disclosure of Interest Aff.pdf, 9. 7_Public Comments.pdf, 10. 2023_0602_CPA 23-02_LAD_Tearsheet.PDF, 11. SUPP MEMO, 12. Presentation

Date	Ver.	Action By	Action	Result
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PLACEMENT: Public Hearings

TITLE:

LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT (CPA) 23-02, HOBE SOUND STORAGE

EXECUTIVE SUMMARY:

This request by Employees Money Purchase Pension Plan and Trust of Boca Cardiology Associates, Babic and Vinci, P.A. is for a small-scale amendment to the Future Land Use Map (FLUM) on a 4.01-acre parcel. The request proposes to change from Medium Density Residential to General Commercial future land use designation. This parcel is located on the east side of SE Federal Highway, south of SE Heritage Boulevard and north of SE Poinciana Lane.

DEPARTMENT: Growth Management

PREPARED BY: **Name:** Daphne Schaub
Title: Senior Planner

REQUESTED BY: Brandon Ulmer, Thomas Engineering Group, LLC.

PRESET:

PROCEDURES: Plan Amendment

BACKGROUND/RELATED STRATEGIC GOAL:

Section 1.11.D(3) of the Comprehensive Growth Management Plan (Comp Plan) authorizes small-

scale development amendments in accordance with Section 163.3187, Florida Statutes (FS). Small-scale development amendments require two public hearings. The first public hearing was scheduled before the Local Planning Agency on June 1, 2023. The second public hearing is the adoption hearing before the Board of County Commissioners. Small-scale development amendments are not transmitted to the state land planning agency or other local and regional reviewing agencies.

A proposed amendment of the Comp Plan is eligible to be processed as a small-scale development if:

- (a) Fifty or fewer acres are involved;
- (b) The proposed amendment does not involve a change to the text of the Goals, Objectives or Policies of the Comp Plan; and
- (c) The land that is the subject of the proposed amendment is not located within an area of critical state concern, unless the proposed amendment involves the construction of affordable housing and meets other statutory criteria.

If not timely challenged, the effective date of a small-scale Comp Plan amendment is 31 days after adoption by the Board of County Commissioners. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted small-scale development amendment is in compliance. If approval of a small-scale plan amendment is challenged, the process for the administrative review will be as provided in Section 163.3187(5), FS.

The Local Planning Agency (LPA) considered this request at an advertised public hearing on June 1, 2023. The LPA vote was tied, and therefore, there is no recommendation for the Board.

ISSUES:

Please see the attached staff report for analysis of the proposed amendment.

LEGAL SUFFICIENCY REVIEW:

Decisions approving or rejecting proposed Comp Plan amendments constitute legislative actions because they involve the policymaking function of the BCC. They are different from rezoning and site plan decisions which are quasi-judicial actions involving the application of general rules of policy to specific situations. If approval of a Plan amendment is challenged by an affected person, the approval will be sustained if it complies with Florida Statutes regarding (1) procedural requirement (e.g. proper notice, public hearing), and (2) substantive requirements (e.g. adequate data and analysis, internal consistency). The fairly debatable standard is applicable to the review and requires judicial approval of a BCC approval if reasonable persons could differ as to the propriety of the decision. For example, if a petitioner were to claim that an amendment adopted a provision that was not consistent with an existing provision of the Comprehensive Plan, the court would strike down the amendment only if the court found no reasonable person would think that the provisions are consistent. If approval of a Comprehensive Plan amendment is challenged, the process for administrative review will be as provided in Section 163.3184(5), FS.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board adopt the Ordinance which assigns the General Commercial future land use

designation to the subject property.

ALTERNATIVE RECOMMENDATIONS

Move that staff provide additional information and continue the item to a future date.

FISCAL IMPACT:

RECOMMENDATION

Staff time.

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- Budget Transfer / Amendment Chair Letter Contract / Agreement
 Grant / Application Notice Ordinance Resolution
 Other:

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