



Legislation Details (With Text)

File #: 19-1027
Type: Public Hearing
Status: Passed
In control: Board of County Commissioners
On agenda: 10/22/2019
Final action: 10/22/2019
Title: LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT 19-20, TUCKER COMMONS

Sponsors:

Indexes:

Code sections:

Attachments: 1. Tucker.FLUM.staffrpt.9.27.19.pdf, 2. Application.pdf, 3. Public Comment.pdf, 4. Certification of Mailing.pdf, 5. Sign Certification.pdf, 6. CPA19-20_CPA19-12.10.17.19.pdf, 7. Ordinance.pdf

Date	Ver.	Action By	Action	Result
10/22/2019	1	Board of County Commissioners	approved	Pass

PLACEMENT: Public Hearings

TITLE:

LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT 19-20, TUCKER COMMONS

EXECUTIVE SUMMARY:

CPA 19-20, Tucker Commons, is a small-scale application to amend the Future Land Use Map regarding 0.755 acres located on SW Mapp Road. The entire property is within the Old Palm City CRA Mixed-Use Future Land Use Overlay. The underlying future land use designation for 0.6 acres is Commercial Office/Residential and for 0.2 acres it is Low Density Residential. The General Commercial Future Land Use designation is requested. The application does not affect the Mixed-Use Future Land Use Overlay.

DEPARTMENT: Growth Management

PREPARED BY: **Name:** Irene A. Szedlmayer, AICP
Title: Senior Planner

REQUESTED BY: HJA Design Studio, Michael Houston, President, 50 East Ocean Blvd., Suite 101, Stuart, FL 34994

PRESET:

PROCEDURES: Plan Amendment

BACKGROUND/RELATED STRATEGIC GOAL:

Section 1.11.D(3) of the Comprehensive Plan 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 is scheduled before the Local Planning Agency on October 17, 2019. 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 amendment if:

- (a) ten 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; however, text changes relating directly to, and adopted simultaneously with, a small-scale amendment of the Future Land Use Map, are permitted; 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.

Decisions approving or rejecting proposed amendments constitute legislative actions because they involve the policy making 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 Comprehensive Plan amendment is challenged by an affected person, the approval will be sustained if it complies with Florida Statutes regarding (1) procedural requirements (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 two provisions are consistent.

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.

ISSUES:

The action taken by the Local Planning Agency will be reported at the public hearing.

LEGAL SUFFICIENCY REVIEW:

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ

as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that are arbitrary and capricious or illegal are subject to serious legal challenge.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board approve the adoption of CPA 19-20, Tucker Commons, amending the Future Land Use Map to designate the subject property General Commercial Future Land Use.

ALTERNATIVE RECOMMENDATIONS

1. Move that staff provide additional information and continue the item to a future date certain.
2. Move that the Board deny the proposed amendment.

FISCAL IMPACT:

RECOMMENDATION

Staff time.

Funding Source	County Funds	Non-County Funds
Application Fee		\$6,100
Subtotal		
Project Total		

ALTERNATIVE RECOMMENDATIONS

1. Staff time.
2. Staff time.

DOCUMENT(S) REQUIRING ACTION:

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