



## Agenda Item Summary

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**File ID:** 20-0110

**PH-4**

**Meeting Date:** 12/17/2019

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**PLACEMENT:** Public Hearings

**TITLE:**

**LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT 19-23, RIO FUTURE LAND USE MAP**

**EXECUTIVE SUMMARY:**

CPA 19-23, Rio FLUM, proposes to amend the Future Land Use Map regarding most of the 542 acres in the Rio Community Redevelopment Area (CRA). Seven future land use designations will be changed to the CRA Center or CRA Neighborhood future land use designation. The Marine Waterfront Commercial, Industrial, Public Conservation and Recreational future land use designations will be retained. The four Rio Mixed-Use Future Land Use Overlays will be eliminated. Also, the eastern boundary of the CRA is modified slightly for consistency with boundaries of lots created after the designation of the CRA.

**DEPARTMENT:** Growth Management

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

**REQUESTED BY:** Board of County Commissioners

**PRESET:**

**PROCEDURES:** Plan Amendment

**BACKGROUND/RELATED STRATEGIC GOAL:**

In accordance with Sections 163.3174(4)(a) and 163.3184(3)(b), Florida Statutes (FS), all Plan amendments require three public hearings. The first public hearing for this Plan amendment was conducted before the Local Planning Agency on October 3, 2019. The second public hearing was conducted on November 12, 2019, at which time the Board of County Commissioners decided to transmit the plan amendment to the State Land Planning Agency.

Upon transmittal, Section 163.3184, FS, requires state and regional reviewing agencies to provide comments to the County regarding any impacts to important state resources and facilities. The state and regional reviewing agencies must provide their comments, if any, to Martin County within 30 days of the agency receipt of the amendments. If comments are received regarding impact to state resources and facilities, they must be addressed prior to adoption of the Plan amendment. Failure to successfully address impacts to state resources and facilities may form the basis for a challenge to the amendment after adoption.

The adoption public hearing is the third required public hearing. Pursuant to Section 163.3184(3)(c)1 and (11), FS, Martin County must hold the adoption public hearing within 180 days after the receipt of reviewing agency comments. If Martin County fails to hold an adoption public hearing, the amendment is deemed withdrawn unless extended by agreement and notice to the State Land Planning Agency and any affected party that provided comments on the amendment. If approved within 180 days, Martin County has ten days to send the amendment adoption package to the State Land Planning Agency. The State Land Planning Agency has five days to find the amendment adoption package complete.

If not timely challenged, the effective date of a plan amendment adopted under the state expedited review process is 31 days after the state land planning agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance. If approval of a Plan amendment is challenged, the process for the administrative review will be as provided in Section 163.3184(5), FS.

Decisions approving or rejecting proposed Plan amendments constitute legislative actions of the Board of County Commissioners. Legislative decisions are those in which the local government formulates policy. They are different from rezoning and site plan decisions which are quasi-judicial actions involving the application of specific rules of policy to specific situations. 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. If approval of a Plan amendment is challenged, 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). Challenges to a denial of a Plan amendment, have an even higher burden. Since the Comprehensive Plan is already in place, the County does not have to meet the statutory, procedural or substantive requirements in order to deny an amendment. Thus, challengers ordinarily seek a remedy based on constitutional claims or some other basis.

## **ISSUES:**

The County Surveyor is finalizing the legal descriptions for the property proposed for change to the CRA Center and CRA Neighborhood future land use designations. **The legal descriptions will be provided by Supplemental Memorandum.**

## **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 19-23, changing the Estate Density Residential, Low Density Residential, Medium Density Residential, Mobile Home Density, Commercial Office/Residential, Limited Commercial, and General Commercial future land use designations to the CRA Center or CRA Neighborhood future land use designations and eliminating the Rio Industrial, Western, Town Center and Eastern Mixed-Use Future Land Use Overlays.

**ALTERNATIVE RECOMMENDATIONS**

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

**FISCAL IMPACT:****RECOMMENDATION**

Staff time.

Funding Source	County Funds	Non-County Funds
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: