



Agenda Item Summary

File ID: 20-1141

PH-2

Meeting Date: 10/27/2020

PLACEMENT: Public Hearings

TITLE:

LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT (CPA) 20-02, MARTINEZ COVE ROAD

EXECUTIVE SUMMARY:

This is a request for a small-scale amendment to the Future Land Use Map (FLUM) on a 2.38-acre parcel. The request would change the future land use designation from Rural Density Residential (up to 1 unit per 2 acres) to Residential Estate Density (up to 2 units per acre). The parcel is addressed at 1500 SE Cove Road and is located west of SE Grace Lane.

DEPARTMENT: Growth Management

PREPARED BY: **Name:** Maria Jose, M.S.
Title: Planner

REQUESTED BY: Steven M. Martinez and Nicholas Martinez, Jr.

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 was conducted by the Local Planning Agency on September 17, 2020. 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 Comprehensive 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.

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:

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

LEGAL SUFFICIENCY REVIEW:

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.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board approve CPA 20-02, Martinez Cove Road, which assigns the Residential Estate Density (2 upa) future land use designation to the property.

ALTERNATIVE RECOMMENDATIONS

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

FISCAL IMPACT:

RECOMMENDATION

Staff time.

ALTERNATIVE RECOMMENDATIONS

Staff Time.

DOCUMENT(S) REQUIRING ACTION:

<input type="checkbox"/> Budget Transfer / Amendment	<input type="checkbox"/> Chair Letter	<input type="checkbox"/> Contract / Agreement
<input type="checkbox"/> Grant / Application	<input type="checkbox"/> Notice	<input checked="" type="checkbox"/> Ordinance
		<input type="checkbox"/> Resolution

☐ Other:

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