



## Agenda Item Summary

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**File ID:** 21-0272

**PH-2**

**Meeting Date:** 1/12/2021

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**PLACEMENT:** Public Hearings

**TITLE:**

**LEGISLATIVE PUBLIC HEARING TO CONSIDER ADOPTION OF COMPREHENSIVE PLAN AMENDMENT (CPA) 19-5, KL WATERSIDE, LLC, A TEXT AMENDMENT**

**EXECUTIVE SUMMARY:**

This is a request for text amendments to Chapter 4, Future Land Use Element and Chapter 11, Potable Water Services Element/10 Year Water Supply Facilities Work Plan. The application includes amendments to Figure 4-2 Urban Service Districts retracting the Primary Urban Service District and creating a Freestanding Industrial Urban Service District; and changing Figures 11-1, Areas Currently Served by Regional Utilities and 11-2, Potential Service Areas.

**DEPARTMENT:** Growth Management

**PREPARED BY:** **Name:** Samantha Lovelady, AICP  
**Title:** Principal Planner

**REQUESTED BY:** KL Waterside, LLC/ SIP Waterside Member, LLC

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

In accordance with Sections 163.3174(4)(a) and 163.3184(3)(c)1 and (11), 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 September 17, 2020. The second public hearing was conducted on October 27, 2020, at which time the Board of County Commissioners (BCC) decided to transmit the plan amendment to the State Land Planning Agency and other state and regional reviewing agencies.

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, Martin County has 10 days to send the amendment adoption package to the State Land Planning Agency. The State Land Planning Agency has 5 days to determine whether the amendment adoption package complete.

If an affected party challenges the adoption of a plan amendment, the petition must be filed within 30 days of the adoption date of the amendment. If the State Land Planning Agency challenges the adoption of a Plan amendment, the petition must be filed within 30 days of the completeness determination by the State Land Planning Agency.

### **ISSUES:**

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

### **LEGAL SUFFICIENCY REVIEW:**

Decisions approving or rejecting proposed 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 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 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 approve the ordinance adopting CPA 19-5 amending the text of Chapter 4, Future Land Use Element and Chapter 11, Potable Water Services Element/10 Year Water Supply Facilities Work Plan.

#### **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:

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

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