



## Agenda Item Summary

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**File ID:** 23-0810

**PH-5**

**Meeting Date:** 6/20/2023

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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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