



A G E N D A
LOCAL PLANNING AGENCY / PLANNING ADVISORY BOARD
TO BE HELD JANUARY 19, 2017
AT 5:30 PM COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994

LOCAL PLANNING AGENCY

Chair - Ryan Strom
Vice Chair - Susan O'Rourke
Board Member - Larry Massing
Board Member - Michael Herbach
Board Member - Li Roberts
Board Member - Bill Mathers
Board Member - John Leighton
Ex Officio - Garret Grabowski

ADMINISTRATIVE

Development Director, Terry O'Neil
Board Secretary, Michelle Vicat

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

CALL TO ORDER

ROLL CALL

ANNUAL BOARD REORGANIZATION

Annual LPA Board Reorganization

APPROVAL OF MINUTES

Approval of LPA Minutes

COMMENTS FROM THE PUBLIC (5 min. max)

COMMENTS FROM THE BOARD MEMBERS

OTHER MATTERS BEFORE THE BOARD

1.

Ordinance Number 2338-2016 -- AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2 "SUPPLEMENTAL USE STANDARDS" OF THE CITY'S LAND DEVELOPMENT CODE THEREBY ESTABLISHING A TWELVE (12) MONTH MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS; DECLARING SAID MORATORIUM TO BE "ZONING IN PROGRESS" IN ACCORDANCE WITH CHAPTER 1 OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

2.

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2, SECTION 2.03.05, TABLE 3 "MAXIMUM DWELLING UNITS PER ACRE" OF THE CITY'S LAND DEVELOPMENT CODE, PROVIDING FOR CONSISTENCY WITH THE CITY'S EXISTING AND LONG-STANDING MINIMUM LOT SIZE REQUIREMENTS BY INCREASING THE MAXIMUM DENSITIES FOR THE R-1A, R-1, R-2, R-3, RPUD, B-1, CPUD AND URBAN DISTRICTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; AMENDING CHAPTER 2, SECTION 2.07.00, "DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD); AMENDING CHAPTER 12, "DEFINITIONS", TO CLARIFY THE DEFINITION OF NET DENSITY AND DENSITY BONUS, DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

3.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AMENDING THE CITY'S COMPREHENSIVE PLAN; SPECIFICALLY AMENDING THE FUTURE LAND USE ELEMENT TABLE OF LAND USE DENSITIES AND INTENSITIES IN ORDER TO INCREASE THE MAXIMUM DENSITY CALCULATIONS FOR LOW DENSITY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL, OFFICE/RESIDENTIAL AND EAST STUART DISTRICT TO PROVIDE FOR CONSISTENCY WITH THE CITY'S EXISTING MINIMUM LOT SIZE REQUIREMENTS; APPROVING TRANSMITTAL OF THE COMPREHENSIVE PLAN TO THE DEPARTMENT OF ECONOMIC OPPORTUNITIES (DEO) AND OTHER RELEVANT AGENCIES AND LOCAL GOVERNMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE, AND FOR OTHER PURPOSES.

STAFF UPDATE

ADJOURNMENT

UPCOMING MEETINGS and EVENTS

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Local Planning Agency**

Meeting Date: 1/19/2017

Prepared by: Michelle Vicat

Title of Item:

Annual LPA Board Reorganization

Summary Explanation/Background Information on Agenda Request:

Elect Chair and Vice Chair

Funding Source:

N/A

Recommended Action:

Elect Chair and Vice Chair

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Local Planning Agency**

Meeting Date: 1/19/2017

Prepared by: Michelle Vicat

Title of Item:

Approval of LPA Minutes

Summary Explanation/Background Information on Agenda Request:

Approval of December 8, 2016 LPA Minutes

Funding Source:

N/A

Recommended Action:

Approval

ATTACHMENTS:

Description	Upload Date	Type
☐ LPA Minutes	1/10/2017	Cover Memo

MINUTES


**LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD MEETING
DECEMBER 8, 2016 AT 5:30 PM
CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD MEMBERS

**Chair - Ryan Strom
Vice Chair - Susan O'Rourke
Board Member - Larry Massing
Board Member - Faye James
Board Member - Li Roberts
Board Member - Bill Mathers
Board Member - John Leighton
Ex Officio - Garret Grabowski**

**ADMINISTRATIVE
Development Director, Terry O'Neil
Board Secretary, Michelle Vicat**

CALL TO ORDER  **5:31 PM**

ROLL CALL  **5:31 PM Roll Call.**

Present: Ryan Strom, Li Roberts, Susan O'Rourke, William Mathers, John Leighton.

Absent: Larry Massing, Faye James.

APPROVAL OF MINUTES

 **5:32 PM Motion: Action:** Approve, **Moved by** John Leighton, **Seconded by** William Mathers.
Motion passed unanimously.

Terry O'Neil said that the Tibouchina project is being heard at the January LPA meeting.

Terry McCarthy, Attorney for Tibouchina said that had a hearing scheduled in November that was moved and heard public comments then. They said they received a petition outlining request that the public wanted and they want to address those requests. He said between now and January they will work on addressing those comments.

COMMENTS FROM THE PUBLIC (5 min. max)

Katy Hollingsworth of 1851 Palm City Road said they want to build a multi-family property on a single family lot and they are adamantly opposed to that. She said there is too much traffic there already and they moved there thinking it was going to be residential.

Chris Lowery of 320 Dyer Drive read a speech that is attached to the minutes.

Deborah Ross, Attorney representing the condominium next door who said they thought the plans were too intense and was happy to hear that the applicant was willing to go back to the drawing board and hoped they would come back with something more acceptable.

Danny Gaviegos who lives on the corner of SW Manor Drive and Palm City Road said she didn't think they should just change the zoning and is very opposed to it. She said it takes 5 minutes to cross the street in the morning.


Terry Jackson of 316 Dyer Drive said there have been many burglaries in the area and having more congestion won't help decreasing that.

Scott Scherer of 300 SW Dyer Drive said they can put in a couple of houses and make a profit; they don't need to put in a lot and make a ton of money.

Roger Haus of 335 SW Dyer Drive said the Rudge property has been an eyesore for years but to decrease the property values, take their privacy away is not the right idea and he is against it.

COMMENTS FROM THE BOARD MEMBERS

OTHER MATTERS BEFORE THE BOARD

1. Amending the RPUD known as "Villagio Stuart", consisting of 11.27 acres, owned by Treasure Coast Properties, LLC, located on the south side of SE Indian Street approximately 580 feet east of the intersection of SE Kanner Highway and SE Indian Street; further revoking Ordinance Number 2042-05, and establishing the Clarity Pointe Residential Planned Unit Development (RPUD) consisting of an 84 bed assisted living facility with memory care; amending the Future Land Use Map of the City's Comprehensive Plan, thereby changing the future land use designation from "Multi-family Residential" to "Commercial" for a 1.92 acre portion of said property; providing that said property shall concurrently rezoned from "Residential Planned Unit Development (RPUD)" to "Commercial Planned Unit Development (CPUD)" on the City's Official Zoning Map; approving a Master Development Plan for the overall Clarity Pointe Planned Unit Development (PUD).  5:45 PM

Susan O'Rourke recused herself from the item as she is traffic engineer on the project.

John Leighton said he had a discussion with Terry O'Neil on the project.

PRESENTATION: Stephen Mayer, Senior Planner
Dan Sorrow, Agent for the Applicant with Cotleur & Hearing

PUBLIC COMMENT: None

BOARD COMMENT:

John Leighton asked why only 2 years on the PAMP?

Toby Overdorf, Crossroads Environmental said the site is set from a natural perspective, there's no planting required, the area has been preserved for some time and they selected an area that wouldn't require additional planting. He said they are willing to do the monitoring reports and thought two years would be sufficient.

Terry O'Neil said almost all PAMPS have been 5 year time frames and thought they should be consistent with policy.

John Leighton asked where the \$103,000 goes.

Terry O'Neil said it goes into the Tree Replacement Fund.

John Leighton asked how much was in that account now.

Terry O'Neil said he would have to get back to them on that.

John Leighton asked for an example of where they've done tree replacement.

Terry O'Neil said the Possum Long Facility on Palm Beach Road; they've bought street trees and the plantings that occurred at Memorial Park.

John Leighton said it is a very alpine design and they used examples with metal roofs but there were no metal roofs.

Bob Thomas, Architect said the owner thinks wood adds warmth and likes the entrance to the facility and said it is a statement of arrival. He said they've used a lot warmer colors for this facility.

Li Roberts asked about the right of way running north and south and asked if it was active.

Mike Mortell said it will have to be platted and they'll have to fix the right of way.

Li Roberts referenced page 8 and asked that the fill material should be a condition of approval. She asked staff to address the wetland mitigation and Blue Field Ranch Mitigation Bank.

Terry O'Neil said the way the PUD is drafted by staff indicate that the wetland mitigation would occur on site or other means rather than outside the city limits and have asked for confirmation information on that but haven't received that. He said that could change, but they have no evidence on the Blue Field donation having been sanctioned by the city and that's why the provision is there.

Toby Overdorf said they submitted a secondary response to the environmental questions that were posed to them and submitted the letter from Blue Field mitigation bank of the mitigation that was previously purchased for the project. He said once wetland mitigation credits have been allocated, the district considers those areas to be mitigated.

Terry O'Neil said this is a PUD Amendment and the real issue is not what the state's reaction is, they would need to determine if the City Commission wants to honor these credits from the earlier PUD and it's not their obligation to do so. He said they wanted to find evidence that the earlier commission had by their action sanctioned this.

Li Roberts said that this is something the City Attorney may need to respond to as they don't have anything in their packet to indicate that.

Toby Overdorf said the pertinent section (505) basically talks about the need to supply environmental permits prior to land clearing and that also shows they've completed the mitigation as well as an analysis that shows this is the best use of the property.

Mike Mortell said the only thing they haven't agreed upon is whether the City Commission has to honor the prior mitigation or whether it is discretionary upon the commission.

Li Roberts asked if the connectivity is taking place when the commercial portion is built.

Stephen Mayer said that is correct.

Ryan Strom asked about the process of the commercial piece and residential piece.

Stephen Mayer said there is an opportunity that they can plat them separately.

John Leighton said they wouldn't be able to clear that parcel until they come in for major amendments to the PUD.

Dan Sorrow said the mitigation that is being applied for does cover the 1.92 acre parcel so they would like to clear that parcel at this point and hydro seed then come back later with any site infrastructure development.

John Leighton said they would have to do a major amendment to the PUD on that parcel in order to do that.

Terry O'Neil concurred and said they may need to adjust the tree mitigation donation to two donations. He said there are two different land uses and two different development sites and they could not issue permits on that site until the major PUD amendment for that site plan has been accomplished and even at that point clearing doesn't occur until permits are obtained for construction.

Dan Sorrow said they are seeking entitlements today for the commercial residential PUD on the old Villagio site for the Clarity Pointe parcel and also entitlements and approval for the commercial PUD before them tonight for the 1.92 acre site and they are together so tonight is the request to grant the approval for clearing of that property so any time in the future they would go to develop a site plan. If they propose a site plan down the road, that's when it will require a major amendment to the PUD.

John Leighton said they are asking for a rezoning from an RPUD to CPUD. He said they would have to have a major amendment to the RPUD in order to do what they are talking about.

Dan Sorrow said it is the commercial PUD that they are asking for approval for tonight. He said an amendment to that plan is when they came in for site development and right now they are asking to designate that piece of property as a commercial PUD and to give them the flexibility to clear it when doing the site work for the residential PUD.

Li Roberts said they didn't have a problem with the designation; their problem is with the clearing. She said they don't do it that way. She said they could put all of this on hold and come back with that and do the whole thing at once, but didn't think that is what they wanted to do.

Dan Sorrow said if that's the board's recommendation, they are fine with that and they would just ask for a continuance to the December 12th meeting while they are working on the revision to the tree mitigation.

Li Roberts said the problem is they need to come back to the LPA before they can get to the commission so if they want to stop this until they come back with the 1.92 acres, they can do that.

Terry O'Neil said that is correct. There is no development site plan for the 1.92 acres that is being considered tonight. It is being rezoned to CPUD and the land use changed and they've been asked to approve retail and office which is a general description but the rest of the coming attractions have to come back. They don't issue site clearing permits until they are permitting phase which is true of the ALF as well. He said between now and second reading they can split the tree donation to reflect the timing on that so they don't have to pay for something that didn't occur until sometime in the future. He said they could request of the commission to do it otherwise under a PUD but these are long standing practices.

Dan Sorrow said this property is under one unified ownership and will remain that way until such time as either they develop the outparcel or sell it and understood that while under single ownership it does not have to be platted but when they subdivide it would.

Terry O'Neil said they are creating a separate parcel and they will need to describe it but they could forego the platting until they propose development of the other parcel which is not the norm but since development isn't proposed on it they could abide that.

Li Roberts asked if the sidewalks are six feet.


Dan Sorrow said they were.

Li Roberts asked about the stabilized grass parking.

John Keith, Development Manager for Clarity Point said staff was concerned about over parking the site and Clarity Point wanted to make sure they had sufficient parking even during special events and holiday.

Li Roberts said on the boundary survey they need to fix the project site.

Bill Mathers said most of his questions have been answered but on the development timetable it has a CO issued on a parking lot and it should be Public Works giving final approval.

MOTION:  **6:50 PM Motion: Approve using the 5 year maintenance plan instead of the 2 year, separate the amount of trees being mitigated plus the minor fixes, Action: Approve, Moved by Li Roberts, Seconded by John Leighton. Motion passed unanimously with Susan O'Rourke abstaining.**

2. Ordinance No. 2337-2016 -- An Ordinance of the City of Stuart, Florida, annexing three adjoining parcels of land between State Road 76 (Kanner Highway) and SE Willoughby Boulevard consisting of 4.07, 7.74 and 17.53 acres respectively, said parcels being more fully described in Exhibit "A" attached hereto; providing directions to the City Clerk; providing for repeal of all ordinances in conflict; providing for severability; providing for codification; and providing for an effective date, and for other purposes.


PRESENTATION: Terry O'Neil, Development Director

PUBLIC COMMENT: None

BOARD COMMENT: None

 **6:56 PM Motion: Action: Approve, Moved by Susan O'Rourke, Seconded by Li Roberts. Motion passed unanimously.**

STAFF UPDATE

ADJOURNMENT  **6:56 PM Motion: Action: Adjourn, Moved by John Leighton, Seconded by William Mathers. Motion passed unanimously.**

Ryan Strom, Chair

Michelle Vicat, Board Secretary

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Local Planning Agency**

Meeting Date: 1/19/2017

Prepared by: T. O'Neil

Title of Item:

Ordinance Number 2338-2016 -- AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2 "SUPPLEMENTAL USE STANDARDS" OF THE CITY'S LAND DEVELOPMENT CODE THEREBY ESTABLISHING A TWELVE (12) MONTH MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS; DECLARING SAID MORATORIUM TO BE "ZONING IN PROGRESS" IN ACCORDANCE WITH CHAPTER 1 OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

Expecting that medical marijuana was likely to gain voter approval last November, the month prior staff prepared a draft ordinance establishing a (12) twelve month moratorium on medical marijuana facilities, thereby giving the City time to secure and understand the state's regulatory regime which has yet to be written. A newspaper ad, notifying the public of tonight's LPA hearing on the matter was published on November 7, 2016. This ad also triggered "zoning in progress" which means that no plans, permit(s), licenses or other development orders of any kind shall be issued for medical marijuana facilities during a "freeze period" while the moratorium is under consideration. In this instance, the freeze period ends on February 8, 2017, however, the City Commission may extend the period for up to an additional three months.

Staff expects the moratorium ordinance will be heard by the City Commission on first reading on January 23, 2017 and on second reading on February 13, 2017. As for drafting local medical marijuana regulations, as soon as the state's regulatory regime is made known, staff intends to move quickly and bring something forward to the LPA and City Commission as much in advance of the moratorium's 11/8/17 expiration date as possible.

Funding Source:

N/A

Recommended Action:

Approve Ordinance No. 2338-2016.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Ordinance No. 2338-2016	1/11/2017	Ordinance add to Y drive
<input type="checkbox"/> November 7, 2016 Newspaper Ad	1/11/2017	Backup Material
<input type="checkbox"/> Section 1.04.04 Zoning in Progress	1/11/2017	Backup Material



**BEFORE THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA**

Ordinance Number 2338-2016

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2 "SUPPLEMENTAL USE STANDARDS" OF THE CITY'S LAND DEVELOPMENT CODE THEREBY ESTABLISHING A TWELVE (12) MONTH MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS; DECLARING SAID MORATORIUM TO BE "ZONING IN PROGRESS" IN ACCORDANCE WITH CHAPTER 1 OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

*** * * * ***

WHEREAS, in light of the unforeseen result of an upcoming Constitutional Amendment petition (known as Amendment #2) on the 2016 ballot; and

WHEREAS, the Stuart City Commission has adopted the Stuart Comprehensive Plan, including goals, objectives, and policies related to zoning and land development; and

WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these goals, objectives and policies through the adoption of a consistent Land Development Code; and,

WHEREAS, it is important to provide city staff with time to undertake a study of appropriate distance separation requirements, appropriate locations and other regulations of medical marijuana treatment centers; and

WHEREAS, a moratorium on applications for, or approval of, any permits or development orders for medical marijuana treatment centers and facilities with similar functions will maintain the status quo during the course of the study and planning process; and

WHEREAS, by amending Chapter 1, "Supplemental Use Standards" of the City's Land Development Code the Stuart City Commission intends to limit the duration of a

moratorium on wireless communications facilities within public rights-of-way to no more than twelve (12) months; and

WHEREAS, consideration of this ordinance has been duly advertised and has occurred during properly held public hearings before the Stuart Local Planning Agency and City Commission; and

WHEREAS, the Stuart City Commission finds it is in the best interest of the citizens of Stuart to adopt a moratorium on applications for, or approval of, any permits for medical marijuana treatment centers and facilities with similar functions; and

WHEREAS, as set forth in Section 1.04.04 of the City's LDC, "Zoning in Progress" has been declared and no permit(s), licenses or other development orders of any kind shall be issued for medical marijuana treatment centers and facilities with similar functions during the "freeze period" described therein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: Chapter 2, "Supplemental Use Standards" of the City of Stuart Land Development Code, is amended as follows:

Section 2.06.23 Twelve month moratorium on uses allowed in each zoning district specifically regarding medical marijuana treatment centers, their consideration of use, desirable locations, and other development regulations. Notwithstanding provisions elsewhere in this code, effective November 7, 2016 there shall be a twelve (12) month moratorium on the placement of medical marijuana treatment centers and facilities with similar functions within the City during which no permit(s), licenses or other development orders of any kind shall be issued for medical marijuana treatment centers and facilities with similar functions.

SECTION 2. As set forth in Section 1.02.04 of the City's Land Development Code DC, during the period of time that the Local Planning Agency and the City Commission are considering this ordinance "Zoning in Progress" has been declared and that no plans, permit(s), licenses or other development orders of any kind shall be issued for medical marijuana facilities during the "freeze period" described therein. The maximum freeze period for zoning in progress is three months, except that the City Commission may extend the period for up to an additional three months for good cause shown and upon making a finding that it is in the public interest to do so.

SECTION 3: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 4: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 5: In accordance with Section 1.02.04 of the City's Land Development Code, approval of this ordinance on first reading shall constitute City Commission approval to extend zoning in progress for an additional three months beyond February 7, 2017, providing said extension shall become void upon approval of this ordinance on second reading.

SECTION 6: The provisions of this ordinance shall be codified.

SECTION 7: This ordinance shall take effect upon adoption.

PASSED on First Reading this 23rd day of January, 2017.

Commissioner _____ offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

EULA CLARKE, MAYOR

TOM CAMPENNI, VICE MAYOR

JEFFERY A. KRAUSKOPF, COMMISSIONER

KELLI GLASS-LEIGHTON, COMMISSIONER

TROY A. MCDONALD, COMMISSIONER

YES	NO	ABSENT

ADOPTED on Second Reading this 13th day of February, 2017.

ATTEST:

CHERYL WHITE

CITY CLERK

APPROVED AS TO FORM

AND CORRECTNESS:

MICHAEL MORTELL

CITY ATTORNEY

EULA CLARKE, MAYOR

ELECTION 2016

Clinton makes plenty of promises on campaign trail

CATHERINE LUCEY
ASSOCIATED PRESS

DES MOINES, Iowa - If Hillary Clinton makes it to the White House, a whole lot of eyes will be on her list of do's and don'ts.

Throughout the presidential campaign against Donald Trump, Clinton has made some very specific pledges about what she would and wouldn't do. Those could come back at Clinton if she's elected. Republicans and liberal Democrats would keep watch to see whether she keeps her word.

"I think Republicans are going to be dogging her any time she flirts with something that sounds like a campaign pledge that's been broken," said Republican strategist Katie Packer, who isn't backing Trump.

Charles Chamberlain, executive director of Democracy for America, said liberals would look at how Clinton tackles issues, and "the key is seeing if she actually fights, rather than insisting that she has to achieve that goal."

Complicating Clinton's path is the reality that the best-laid plans can change. President George H.W. Bush, for example, pledged "no new taxes" but eventually agreed to a budget compromise with Democrats that did include some tax increases. He lost his re-election bid to Democrat Bill Clinton.

A look at some pledges Hillary Clinton made in the final presidential debate and what they could mean for her as president:

Taxes

"I will not raise taxes on anyone making \$250,000 or less. I also will not add a penny to the debt."

Clinton has focused her campaign on working- and middle-class families and promised to tax the wealthy to pay for more social programs, but she repeatedly said those making \$250,000 or less will be exempt. That's the cutoff her campaign has identified to protect the middle class. Clinton says that by taxing the wealthy, she won't create any new debt, though she has not said she would cut the current debt.

This tax pledge means any new fees or costs for lower-earning families will be scrutinized. When it comes to the national debt, Packer said that "there's a lot of different ways you can do the math that make that a very hard promise to keep."

Trans-Pacific Partnership

"I'm against it now. I'll be against it after the election. I'll be against it when I'm president."

This is a big one for Clinton. She came out against the trade deal last year amid mounting pressure from liberals. She previously praised the deal as secretary of state, calling it the "gold standard" of trade agreements. In the past, she has supported some trade deals and opposed others. So progressives will watch Clinton if she wins, not just after Jan. 20 but during the transition, to see if she mounts opposition to a vote in the lame-duck Congress.

"It's going to be critically important that she steps up, she stands up and says it's not going to be passed in the lame duck," said Chamberlain, adding that if Clinton does not take such a stand, "in many people's eyes that would be breaking a promise."

Military

"I will not support putting American soldiers into Iraq as an occupying force."

Clinton has made it clear that she does not want more American soldiers to serve on the ground in the Middle East. There are several thousand U.S. troops in Iraq now serving as trainers and advisers to the Iraqi military. She has made similar statements about Syria, where dozens of U.S. special operators are helping. Still, Chamberlain said that on this pledge, liberals see "a lot of wiggle room there. The progressive movement wants to see less military action, period."

Republican strategist Rick Tyler, who advised Texas Sen. Ted Cruz's presidential bid, said this type of promise could be hard, depending on world events.

College costs

"I want to make college debt-free, and for families making less than \$125,000, you will not get a tuition bill from a public college or university if the plan that I worked on with Bernie Sanders is enacted."

Clinton enhanced her college affordability plan with the Vermont senator, her rival in the presidential primaries, in an effort to win over his supporters.

Packer said this might be an area that both sides want to work on: "That strikes me as a thing that transcends ideology."

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NOTICE OF PUBLIC MEETING

CITY OF STUART LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD

NOTICE: The CITY OF STUART LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD will meet on Thursday, January 19, 2017 at 5:30 PM in the City Commission Chambers at City Hall, 121 SW Flagler Avenue, Stuart, Florida.

The following items are scheduled on the agenda for review and recommendation to the Stuart City Commission:

1. ORDINANCE #2338-2016: AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2 "SUPPLEMENTAL USE STANDARDS" OF THE CITY'S LAND DEVELOPMENT CODE THEREBY ESTABLISHING A TWELVE (12) MONTH MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS, DECLARING SAID MORATORIUM TO BE "ZONING IN PROGRESS" IN ACCORDANCE WITH CHAPTER 1 OF THE CITY'S LAND DEVELOPMENT CODE, PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

The public is encouraged to attend and participate in the public meeting. Any questions regarding the meeting may be addressed by calling the City Development Department at (772) 288-5375 from 8:30 a.m. to 5:00 p.m. Monday through Friday.

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordinator at (772) 288-5375 or TDD at (772) 288-5302 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

Terry O'Neil
Development Department

7/16/16/17

**To Our Veterans,
Thank you for serving our country
and protecting our freedom.
With respect, honor and gratitude,
Your Martin County
Property Appraiser's
Office**



*I have an
open door policy,
and we are here
to serve you.*
Laurel Kelly
Laurel Kelly, CFA
Martin County
Property Appraiser

Property Tax Benefits for Active Duty Military and Veterans

Property Tax Exemptions and Discounts:

- Disabled Ex-Service Member
- Service-Connected Total and Permanent Disability or Confined to a Wheelchair
- Discount for Veterans 65 or Older with a Combat-Related Disability
- Deployed Military Exemption
- Surviving Spouse of Military Veteran Who Died in the Line of Duty

The eligibility requirements for the original \$25,000 homestead exemption must be met to be eligible for these Veterans & Active Duty Military exemptions, and other exemptions.

To find out about applying for these and other exemptions, please call us at (772) 288-5608, or visit our website at www.pa.martin.fl.us.

FILING DEADLINE FOR ALL EXEMPTIONS IS MARCH 1, 2017

Main Office:
111 SE Federal Hwy.,
Suite 330, Stuart
(772) 288-5608
Office Hours: 8am-6pm
Mon.-Fri.

Hobe Sound Office:
11723 SE Federal Hwy.
(Public Shopping Ctr.)
(772) 548-1309
Office Hours: 8am-6pm
Mon.-Fri.

Indiantown Office:
Governmental Complex,
16650 W. Highway Blvd.,
Open Part Time
Please contact our main
office for schedule.

Star Light...Star Bright!



— GRAND RE-OPENING —

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November 7 - 9, 2016
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7/16/16/17



- C. Development shall not exceed the established density requirements, except as otherwise provided within of this Code.
- D. Occupancy of all structures shall comply with provisions established herein.
- E. *Only one principal building.* Every building or structure hereafter erected in an R-1A, R-1, or R-2 zoning district shall be located on a lot or tract as defined in Chapter XII of this Code; and in no case shall there be more than one principal building on one lot, plus its accessory structures.
- F. *Street frontage.* No building shall hereafter be erected on a lot which does not abut or have immediate frontage on a publicly dedicated, publicly approved, or publicly maintained street.
- G. *On-site and off-site improvements.* With the exception of infill single-family and duplex development, all other development shall be reviewed for adverse traffic impact by the city development department. If it is determined upon review that there exists reasonable grounds to believe that specific improvements are needed to accommodate the perceived adverse traffic impact of the development, such specified improvements shall be included as condition of approval and completed prior to certificate of occupancy. Such improvements are defined as, but not limited to; roads, alleyways, sidewalks or curbing, drainage structures, acceleration and deceleration lanes, traffic control devices including signalization, directional signs, regulatory or any other device or construction for the benefit of the public.

Sec. 1.04.03. Exceptions.

A. *Previously issued development permits.* The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit if a permit was issued for the development activity prior to October 18, 2010, provided further that the development activity continues without interruption until the development is complete, or permit extension(s) are obtained. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this Code.

Sec. 1.04.04. Zoning in progress.

- (1) *Purpose.* The purpose of zoning in progress is to allow the city to make a text amendment or district map change to the Stuart Land Development Code, and apply that change to development applications submitted following the declaration of zoning in progress. Additionally, zoning in progress allows a temporary hold on permits, licenses and other development orders already in progress, if there is a pending change in the Land Development Code that would affect the permit, license or other development order.
- (2) *No permits issued; and period of time.* During the period of time that the land planning agency or the city commission is considering either a text amendment or a change of zoning district to the Stuart Land Development Code, no plans, permit(s), license(s), or other development order(s) of any kind shall be issued if issuance would result in the nonconforming or unlawful use of the subject property in the event that the text amendment or zoning district change be enacted by the city commission (freeze period). The maximum freeze period allowed for zoning in progress shall be three months, except that the city



commission may extend the period for up to an additional three months for good cause, and upon making a finding that it is in the public interest to do so.

- (3) *Notice of declaration.* The declaration of zoning in progress, and the freeze period on development orders, permits and licenses shall begin on the earlier of:
- (a) Publication of a notice of a public hearing before the city commission to consider a resolution declaring zoning in progress; or
 - (b) Publication of a notice of a public hearing before the local planning agency on a text amendment or zoning district change, which notice also includes a notice of zoning in progress.
- (4) *Applicability.*
- (a) Upon adoption of a text amendment or district map change, all pending applications, permits, licenses, and other development orders shall conform to the new provisions.
 - (b) Notwithstanding anything contained in this section to the contrary, no application for a text amendment to the Code, or map rezoning, plan approval, permit, or other development order shall be held up by this procedure for more than a total of six months, including all time periods described herein. Any such approval shall be deemed granted, if so affected, except as provided in subsection (c) below.
 - (c) Where an affected property owner requests a postponement or other delay of an application, such period of delay shall toll the running of the freeze period.
 - (d) If it is determined by the city development director that an application for a text amendment or map rezoning, plan, permit, license, or other development order would not violate the provisions of a pending zoning measure, such application, shall be exempt from this section.
- (Ord. No. 2056-05, § 1, 11-28-05)

1.05.00. INCORPORATION BY REFERENCE

Sec. 1.05.01. Maps.

The approximate boundaries of the zoning districts, special districts, overlay zones, Old Downtown District, and Formula Business district, of the City of Stuart are shown on the map entitled "Official Zoning Map, City of Stuart, Florida," dated and certified by the city clerk. Said map is hereby incorporated into and made a part of this Code by reference.

Regardless of the existence of copies of the zoning map which may from time to time be made or published, the official zoning map of the City of Stuart, Florida, in the office of the city clerk shall be the final authority for zoning districts in the city.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Local Planning Agency

Meeting Date: 1/19/2017

Prepared by: Stephen Mayer

Title of Item:

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2, SECTION 2.03.05, TABLE 3 "MAXIMUM DWELLING UNITS PER ACRE" OF THE CITY'S LAND DEVELOPMENT CODE, PROVIDING FOR CONSISTENCY WITH THE CITY'S EXISTING AND LONG-STANDING MINIMUM LOT SIZE REQUIREMENTS BY INCREASING THE MAXIMUM DENSITIES FOR THE R-1A, R-1, R-2, R-3, RPUD, B-1, CPUD AND URBAN DISTRICTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; AMENDING CHAPTER 2, SECTION 2.07.00, "DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD); AMENDING CHAPTER 12, "DEFINITIONS", TO CLARIFY THE DEFINITION OF NET DENSITY AND DENSITY BONUS, DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

This Land Development Code text amendment is complimentary to Ordinance No. 2342-2017, which propose increasing the maximum density calculations for Low Density Residential, Multi-Family Residential, Office/Residential (only for duplexes), and East Stuart District. These changes are due to a recent application for a minimum lot size reduction variance before the Board of Adjustment (BOA) and questions raised by an objecting neighbor as to how a site's maximum residential density should be calculated, a number of long-overlooked inconsistencies between the City's Comprehensive Plan and its LDC have been brought into light. Of note is the fact that state-mandated goals, policies and objectives contained in a jurisdiction's comprehensive plan are paramount and override any conflicting or errant language that may exist in its land development regulations. However, long-standing practices and existing residential lots have been developed contrary to comprehensive plan. In order to continue these practices, the comprehensive plan must be reviewed and amended to provide consistency.

Since its adoption in 1967, Stuart's Zoning Code -- now the LDC -- has set forth, without change, the following minimum lot sizes for residential lots in the R-1A, R-1, and R-2 duplex zoning districts: (R-1A 10,000, R-1 7,500, R-2 (Duplex) 7,500.

As a result, for nearly 50 years, a single-family or duplex lot meeting these minimum standards (as well as minimum lot width, impervious coverage limitations and setbacks) has been deemed compliant and issued a permit for development. Further, since 1967, the City's BOA has routinely granted lot size variances allowing single-family and duplex homes on smaller lots. In the late 1990's, prompted by Martin County's law suits over annexation, in accordance with Chapter 163 of Florida Statute, the City Commission made several remedial amendments to its Comprehensive Plan, thereby establishing a maximum of (7) seven dwelling units per acre (UPA) in the "Low-Density Residential" land use category, which generally encompasses R-1A, R-1 and R-2 duplex zoning districts. Sometime following this amendment, the LDC was (inexplicably) altered to include more restrictive density caps of (4) four units per acre (UPA) in the R-1A zoning category and (5) five UPA in the R-1 district. In 2007, the LDC was amended to include "cottage lot" provisions to encourage smaller lot development within older established subdivisions.

Staff has performed an analysis of every residential zone and identified several zoning districts that were in conflict with the densities prescribed in the Comprehensive Plan. To resolve these conflicts, both the City's

Comprehensive Plan and its Land Development Code must be amended. First, staff drafted a text amendment to correct the inconsistencies of the Future Land Use Element and requested the assistance of legal consultants Robert Pennock and Bob Apgar, who are well known leaders in Comprehensive Planning in the State of Florida. We requested that they provide any legal or planning issues in regard to our draft and what the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment. Their memorandum is attached and states in summary, "The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-year Capital Improvements Schedule was needed...Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

In drafting this language to the Land Development Code, staff has made an assumption that the Commission wishes to retain the status quo in terms of applying the same minimum lot size and density standards that have been observed since 1967. Therefore, staff recommends approval of the draft ordinance to increase the maximum densities of the R-1A, R-1, R-2, R-3 (for duplexes only), RPUD, B-1, CPUD and Urban Districts, amend the densities established for Planned Unit Development, and amend the definition of net density and density bonus.

The complimentary Ordinance (Ordinance No. 2342-2017) amending the Land Development Code contains mutual issues and staff anticipates that the two Ordinances will be given joint consideration.

Funding Source:

N/A

Recommended Action:

Staff recommends approval of Ordinance 2332-2017 and forwarding for consideration by the Stuart City Commission for first reading.

ATTACHMENTS:

Description	Upload Date	Type
❑ Ordinance No. 2332-2017	1/13/2017	DRAFT ORDINANCE
❑ Staff Memo	1/13/2017	Staff Report
❑ Residential Density Analysis	1/13/2017	Attachment
❑ Legal Consultant Memo	1/13/2017	Attachment

Return to:

City Attorney's Office
City of Stuart
121 SW Flagler Street
Stuart, FL 34994

**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

ORDINANCE NO: 2332-2017

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 2, SECTION 2.03.05, TABLE 3 "MAXIMUM DWELLING UNITS PER ACRE" OF THE CITY'S LAND DEVELOPMENT CODE, PROVIDING FOR CONSISTENCY WITH THE CITY'S EXISTING AND LONG-STANDING MINIMUM LOT SIZE REQUIREMENTS BY INCREASING THE MAXIMUM DENSITIES FOR THE R-1A, R-1, R-2, R-3, RPUD, B-1, CPUD AND URBAN DISTRICTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; AMENDING CHAPTER 2, SECTION 2.07.00, "DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD); AMENDING CHAPTER 12, "DEFINITIONS", TO CLARIFY THE DEFINITION OF NET DENSITY AND DENSITY BONUS, DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the effective regulation of zoning density, as a means of regulating the volume, location, and intensity of residential dwelling units is vital to the public's health safety and welfare; and

WHEREAS, Policy A7.2 of the City's Comprehensive Plan establishes a "Table of Land Use Densities and Intensities which provides that the maximum dwelling units per acre of 7 dwelling units per acre within the Low Density Residential Future Land Use Designation;

and

WHEREAS, Objective B1 of the City's Comprehensive Plan discourages urban sprawl by facilitating urban redevelopment and infill development of properties and planning for urban infill and redevelopment of lands located within Stuart in order to achieve a compact urban form.

WHEREAS, on October 20, 2016, the Local Planning Agency met for the purpose of transmitting its recommended amendment to the Land Development Code; and

WHEREAS, the Stuart City Commission held duly noticed public hearings on November 14, 2016 and November 28, 2016 to consider this ordinance and provide for full public participation in the Land Development Code amendment process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City of Stuart Land Development Code Chapter 2, Section 2.03.05, Table 3, "Maximum Dwelling Units per Acre" is hereby amended as follows:

TABLE 3

MAXIMUM DWELLING UNITS PER ACRE

Comprehensive Plan Land Use Classification	Zoning Districts																			
	R1-A	R-1	R-2	R-3	RPUD ¹	B-1	B-2	B - 3	B - 4	CPU D	P	I	I P U D	H	PSP UD	MXPUD	Urban Code District	East Stuart		
																		GRO	BMU	SFD
Low Density Residential	4 9	5 9	7 9/14 8		4²/7³/15⁴ 9/14 ⁸															
Multi-family Residential				10/ 14 2	4²/7³/15⁴ 30	10	L	L								15 ²	30			
Office/Residential				10/ 14 2	15 30	10	10	1	8 /10 4	5²/7						15 ²	30			
Commercial				10		10	L	L	8 /10 4	5²/7						15 ²	15			
Downtown Redevelopment				15/30	15/30 ³	15/30	15/3 0		8 /10 4	5²/7						15 ²	15/30 ⁶			
Neighborhood/ Special Dist.					15				8 /10 4	5²/7						15 ²	15/30 ⁶			
Industrial																				
East Stuart																15 ²		15/30 ⁵	15/30 ⁵	17
Marine/Industrial				15			15									15 ²	15/30 ⁶			
Public											E									
Recreation																				
Institutional					4²/7³ /15 ⁴															
Conservation																				

R-1A Single Family - Estate; R-1 Single Family - General; R-2 Duplex; R-3 Multi-Family/Office; R-M Residential Multi-Family; B-1 Business -Limited; B-2 Business-General; B-3 Business-Restricted; B-4 Limited Business/Manufacturing; P Public Service; I Industrial; H Hospital; Planned Unit Development (PUD) includes Residential (RPUD), Commercial (CPUD), Public Service (PSPUD), Industrial (IPUD), and Mixed Use (MXPUD); Urban Code District includes Urban General (UG), Urban Center (UC), Urban Neighborhood (UN), Urban Highway (UH), Urban Waterfront (UW); East Stuart District includes Business and Mixed Use (BMU), General Residential and Office (GRO), Single-family and Duplex (SFD).

Footnotes:

1 = Assisted Living Facility (ALF) is allowed a maximum of 30 units per acre in land use classification multi-family residential, office/residential, and downtown redevelopment.

~~2 = Single Family Detached Dwelling Unit~~

~~3 = Single Family Attached Dwelling Unit~~

~~4 = Multi Family Dwelling Unit~~

~~2 5~~ = Potential Bonus Units Allowable. Where not less than 50% of the total residential units of site are smaller than 1,500 square feet in size, then at the sole discretion of the city commission, a residential unit variety density bonus may be awarded (Refer to Land Development Code Table 2.07.00.C).

~~3 6~~ = Up to 30 units with Major Urban Code Conditional Use

~~7 = Based on R-1 Density Requirements~~

~~8 = Based on R-2 Density Requirements~~

~~4 9~~ = Based on R-3, B-1 and B-2 Density Requirements

~~5 10~~ = Up to 30 with East Stuart District Conditional Use Approval

~~6 11~~ = Up to 30 upon approval by City Commission with a RPUD within the Downtown Redevelopment Land Use area

~~7 = Up to 14 for duplexes provided that such a density achieves certain performance standards in the Land Development Code~~

~~8 = Maximum Nine units per acre for single family dwelling units and 14 units per acre for duplex units~~

~~9 = Maximum ten units per acre for single and multi-family dwelling units and 14 units per acre for duplex units~~

E = Only Residential dwelling unit allowed and only by Conditional Use

L = Limited. No maximum density established by Land Development Code or Comprehensive Plan at this time. Rather, the term "Limited" is used instead of a numerical value.

2.07.00 DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD)

3. Density. The net residential density for an RPUD shall not exceed the maximum permitted as prescribed by the following:

A. Single-family, detached: ~~Four~~ Nine dwelling units per acre

B. Single-family, attached: ~~Seven~~ Nine dwelling units per acre

C. Multiple-family residential: ~~15~~ Thirty dwelling units per acre

2.03.03. Planned Unit Development (PUD) density

The density for a planned unit development shall not exceed those densities set forth in Table 3 – Maximum Dwelling Units per Acre, unless a density bonus as defined herein, has been granted by the city commission as part of a planned unit development zoning agreement.

Chapter 12, “definitions”, to clarify the definition of net density and density bonus

Density Bonus: Additional residential density may be approved for a RPUD in accordance with the City of Stuart's comprehensive plan and land development regulations provided the total density does not exceed 30 dwelling units per acre. A density bonus may only be granted at the discretion of the City Commission as an incentive for developments to provide greater public amenities or housing opportunities which enhance the City, such as affordable housing, new housing stock, or housing types that are in demand.

Net density: The net density of a project shall be computed by dividing the total number of units to be constructed by the net residential acreage of the parcel. The net residential acreage of a parcel shall be the acreage devoted to residential lots buildings, and accessory structures rights-of-way, common areas, landscape buffers and retention areas less all bodies of water including wet retention areas, the dedicated public open space, all easements dedicated to a governmental body for a public use, all public and private road right-of-ways, and required protected environmentally sensitive areas.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provisions of this ordinance shall be codified.

SECTION 5: This ordinance shall become effective immediately upon adoption.

PASSED on First Reading this ____ day of _____, 2017.

Commissioner _____ offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

JEFFERY KRAUSKOPF, MAYOR
EULA CLARKE, VICE MAYOR
THOMAS CAMPENNI, COMMISSIONER
KELLI GLASS-LEIGHTON, COMMISSIONER
TROY MCDONALD, COMMISSIONER

ADOPTED on second and final reading this ____ day of _____, 2017.

ATTEST:

CHERYL WHITE
CITY CLERK

JEFFERY A. KRAUSKOPF
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL
CITY ATTORNEY

Memorandum

To: City Commission

From: Terry O'Neil, City Development Director

Cc: Paul Nicoletti, City Manager

Mike Mortell, City Attorney

Date: January 12, 2016

Re: Inconsistencies between the City's Comprehensive Plan and its Land Development Code (and within the LDC itself) in the application of maximum residential density calculations.

Due to a recent application for a minimum lot size reduction variance before the Board of Adjustment (BOA) and questions raised by an objecting neighbor as to how a site's maximum residential density should be calculated, a number of long-overlooked inconsistencies between the City's Comprehensive Plan and its LDC have been brought into light. Of note is the fact that state-mandated goals, policies and objectives contained in a jurisdiction's comprehensive plan are paramount and override any conflicting or errant language that may exist in its land development regulations. However, long-standing practices and existing residential lots have been developed contrary to comprehensive plan. In order to continue these practices, the comprehensive plan must be reviewed and amended to provide consistency.

Since its adoption in 1967, Stuart's Zoning Code -- now the LDC -- has set forth, without change, the following minimum lot sizes for residential lots in the R-1A, R-1, and R-2 duplex zoning districts:

Zone	Minimum lot size (Sq. Ft.)
R-1A	10,000
R-1	7,500
R-2 (Duplex)	7,500

As a result, for nearly 50 years, a single-family or duplex lot meeting these minimum standards (as well as minimum lot width, impervious coverage limitations and setbacks) has been deemed compliant and issued a permit for development. Further, since 1967, the City's BOA has routinely granted lot size variances allowing single-family and duplex homes on smaller lots. In the late 1990's, prompted by Martin County's law suits over annexation, in accordance with Chapter 163 of Florida Statute, the City Commission made several remedial amendments to its Comprehensive Plan, thereby establishing a maximum of (7) seven dwelling units per acre (UPA) in the "Low-Density Residential" land use category, which generally encompasses R-1A, R-1 and R-2 duplex zoning districts. Sometime following this amendment, the LDC was (inexplicably) altered to include more restrictive density caps of (4) four units per acre (UPA) in the R-1A zoning category and (5) five UPA in the R-1 district. In 2007, the LDC was amended to include "cottage lot" provisions to encourage smaller lot development within older established subdivisions.

Furthermore, the Land Development Code establishes a density of 17 units per acre, which is reflective of the specific historic fabric of the East Stuart neighborhood. The Comprehensive Plan established 15 units per acre for the East Stuart district and therefore would need to be amended to be consistent.

DENSITY CONFLICTS BETWEEN THE COMPREHENSIVE PLAN AND THE LDC AND WITHIN THE LDC ITSELF

Notwithstanding the facts that: (1) The same minimum lot sizes standards that have been in place since 1967, (2) The BOA has maintained a long-standing practice of granting lot size variances, and (3) The 2007 “Cottage Lot” ordinance was adopted specifically to encourage in-fill development, if the CP’s and the LDC’s “newly interpreted” density standards are applied, a host of older lots may remain vacant or underdeveloped.

Staff has performed an analysis of every residential zone and identified several zoning districts that were in conflict with the densities prescribed in the Comprehensive Plan. The following table summarizes the lot size versus density conflicts for zones staff recommends corrective text amendments:

	Current minimum lot size per LDC (Sq. Ft.)	Required lot size if CP’s 7 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 4 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 5 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 7 UPA density caps applied (Sq. Ft.)	Lot meets CP’s density cap	Lot meets LDC’s density cap
R-1A	10,000	6,222	10,890	NA	NA	Yes	No
R-1	7,500	6,222	NA	8,712	NA	Yes	No
R-2 duplex	7,500	12,444	NA	NA	12,444	No	No

Fixing the problem

To resolve these conflicts, both the City’s Comprehensive Plan and its Land Development Code must be amended. First, staff drafted a text amendment to correct the inconsistencies of the Future Land Use Element and requested the assistance of legal consultants Robert Pennock and Bob Apgar, who are well known leaders in Comprehensive Planning in the State of Florida. We requested that they provide any legal or planning issues in regard to our draft and what the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment. Their memorandum is attached and states in summary, “The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-year Capital Improvements Schedule was needed...Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

In drafting this language to the Comprehensive Plan, staff has made an assumption that the Commission wishes to retain the status quo in terms of applying the same minimum lot size and density standards that have been observed since 1967. Therefore, staff recommends approval of

the draft ordinance to the Future Land Use Element, increasing the maximum density calculations for Low Density Residential, Multi-Family Residential, Office/Residential (only for duplexes), and East Stuart District.

RESIDENTIAL DENSITY ANALYSIS

RESIDENTIAL DENSITY ANALYSIS												
		COMPREHENSIVE PLAN					SCENARIO	LAND DEVELOPMENT CODE				
		Max. density per acre per Comp Plan	Total acres of LDR in City	Max. number of units allowed by Comp Plan	Approximate number of existing residential units	Percent of density used of allowed density by Comp Plan	Zoning	Density cap per LDC	Sq. feet required per unit per LDC (43,560 sq. ft. divided by density cap)	Min Lot Size per LDC	Use specifically permitted by LDC	Does LDC's minimum lot size comply with maxim density per LDC
1	Low Density Residential	7	821.61	5,751	2,632	46	R-1A	4 (4.36)	10,890 sq. ft.	10,000 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-1	5 (5.9)	8,712 sq. ft.	7,500 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-2 (Single-family)	7 (7.27)	6,222 sq. ft./unit or 12,444 sq. ft. total	6,000 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-2 (Two-family)	7 (13.4)	6,222 sq. ft./unit or 12,444 sq. ft. total	7,500 sq. ft.	Duplex	No
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Single-family)	4	10,890 sq. ft.	None	Single-family	N/A
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Two-family)	7	6,222 sq. ft./unit or 12,444 sq. ft. total	None	Two- family	N/A
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Multi-family - 3 units/Comp Plan doesn't allow MF)	15	2,904 sq. ft./unit or 8,712 sq. ft. total	None	Multi-family (3 units)	N/A
	Low Density Residential	30	821.61	24,648	2,632	11	RPUD (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, Two-family and Multi-family (3 units or more)	N/A
2	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Single-family)	10 (7.26)	4,356 sq. ft.	6,000 sq. ft.	Single-family	Yes
	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Two-family)	10 (11.62)	4,356 sq. ft./unit or 8,712 square feet total	7,500 sq. ft.	Two- family	No
	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Multi-family - 3 units)	10 (13.07)	4,356 sq. ft./unit or 13,068 square feet total	10,000 sq. ft.	Multi-family (3 units)	No
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Single-family)	4	10,890 sq. ft.	None	Single-family	N/A
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Two-family)	7	6,222 sq. ft./unit or 12,444 sq. ft. total	None	Two- family	N/A
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Multi-family - 3 units)	15	2,904 sq. ft./unit or 8,712 sq. ft. total	None	Multi-family (3 units)	N/A
	Multi-family Res. (MFR): RPUD Inside UCD-CRA	30	496.73	14,902	3,673	25	Urban Code Conditional Use	30	1,452 sq. ft./unit	None	Single-family, Two-family and Multi-family (3 units or more)	N/A
	Multi-family Res. (MFR): Inside UCD-CRA - DOES NOT EXIST	15	496.73	7,450	3,673	49	DOES NOT EXIST					
	Multi-family Res. (MFR): Inside UCD-CRA - DOES NOT EXIST	30	496.73	14,901	3,673	25	DOES NOT EXIST					

RESIDENTIAL DENSITY ANALYSIS

3	East Suart	15	55.97	839	533	64	BMU, GRO	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	BMU, GRO (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	RPUD (BMU, GRO)	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	RPUD (BMU, GRO/ Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	SFD	17	2,562 sq. ft./unit	None	Single-family and Two-family	N/A
4	Downtown Redevelopment (DTR)	15	219.42	3,291	529	16	UH, UG, UC, UW, UN	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Downtown Redevelopment (DTR)	30	219.42	6,582	529	8	UH, UG, UC, UW, UN/Conditional Use	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Downtown Redevelopment (DTR)	30	219.42	6,582	529	8	RPUD (UH, UG, UC, UW, UN)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
5	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Single-family)	10	4,356 sq. ft./unit	10,000	Single-family	Yes
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Two-family)	10	4,356 sq. ft./unit or 8,712 sq. ft. total	10,000	Two- family	Yes
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Multi-family)	10	4,356 sq. ft./unit or 13,068 sq. ft. total	10,000	Multi-family (3 units)	No
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Residential units with business)	10	4,356 sq. ft. (Single-family); 8,712 sq. ft. (Two-family); 13,068 sq. ft. (3 units total)	10,000	Single-family, two-family and Multi-family (3 units or more)	Yes/Yes/No
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	RPUD	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	RPUD (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Office/Residential: Inside UCD-CRA - DOES NOT EXIST	15	138.12	2,072	527	25	DOES NOT EXIST					

MEMORANDUM

TO: City of Stuart, Florida

FROM: Robert C. Apgar, Esquire
Robert Pennock, Ph.D., AICP

RE: Review of Proposed Comprehensive Plan Amendment

DATE: December 20, 2016

This is written in response to a request from the City of Stuart that Apgar and Pennock review the attached draft amendment to comprehensive plan Policy A.7.2 (“the amendment”) and respond to the following questions:

1. Does the proposed amendment raise any legal or planning issues that might support an administrative or judicial challenge to the amendment? Is there anything missing that would be important to the validity of the amendment?
2. What are the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment.

Response to Question 1: legal and planning issues.

The proposed amendment would increase the maximum density allowable in certain land use categories; delete limitations on the total number of acres in development that exceed 15 dwelling units per acre; and add or amend footnotes for clarification. The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-Year Capital Improvements Schedule was needed. The amendment is clearly within the City’s authority and responsibility under the Community Planning Act, Chapter 163, Part II, Florida Statutes. Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

There are, however, some minor issues that should be addressed. Footnote 5 describes “flexible densities having a base of nine (9) units per acre for single family dwelling units and a maximum of fourteen (14) units per acre for duplexes . . .” The term “base” is not commonly used in regulatory documents and could be confusing. From the context, “base” appears to indicate a maximum number of single family units. If so, “maximum” would be a better term to use.

Further, we recommend that

- The maximum of 14 units per acre for duplexes be stated in the Table of Land Use Densities and Intensities. In general, all minimum and maximum limits should appear in the land use table, not in footnotes.
- The conditional language regarding compatibility would be better placed in a future land use element policy and this footnote could reference that policy.
- Footnote 2 changes the term UCE to UCCU. This acronym should also be changed in the Table of Land Use Densities and Intensities.

Finally, the “Note” that follows the numbered footnotes states that properties in the Coastal High Hazard Area are limited to a maximum of 15 units per acre except in certain cases, and ALF’s are prohibited. The City should insure that this restriction is stated in a policy or objective in the FLU element or the Coastal Element of the Plan. The Note should reference the applicable policy or objective.

The amendment must be supported by data and analysis providing the planning rationale for the amendment and showing the effect of these density increases.

The data and analysis could include the following:

- A recent review of the land development regulations, particularly Chapter 2, showed that in some instances the land development regulations, if read independently from the comprehensive plan, could cause some confusion regarding what densities are allowed in particular circumstances. This proposed plan amendment, along with subsequent revisions to the land development regulations, is intended to provide clarity and certainty with regard to the maximum residential densities that may be allowed.
- Also, these plan amendments support several important planning goals including the discouragement of urban sprawl, increased opportunities for affordable housing, and economic development within the City. (this should be expanded by City)
- Supporting data and analysis is required by section 163.3177 F.S. The DEO website <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/how-to-prepare-and-submit-a-proposed-expedited-state-review-comprehensive-plan-amendment> outlines these requirements which include: A description of availability of and the demand on sanitary sewer, solid waste, drainage, potable water and water supply, traffic circulation, schools (if local government has adopted school concurrency), and recreation, as appropriate.
 - This may require changes to the Capital Improvements Schedule – but this appears unlikely.

- Note that an impact analysis should take into account the population projections.
- An analysis of extra-jurisdictional impacts, if any.

Response to Question 2: Procedures for adoption.

This Memorandum provides an overview of the adoption process. It does not, however, repeat all of the detailed requirements of the statute, Fla. Stat. 163.3184. The City Staff must review the statute to insure that all requirements are met.

First, the proposed plan amendment must be reviewed by the local planning agency (“LPA”) pursuant to Fla. Stat. 163.3174. The LPA must hold at least one public hearing on the plan amendment. The LPA must make a recommendation to the local government, including whether the proposed amendment is consistent with the local comprehensive plan.

The procedures for the City Commission to adopt the proposed amendment are set out in Fla. Stat. 163.3184(3), known as the Expedited State Review Process, and 163.3184(11), which describes the public hearings and method of adoption. Additional requirements are set out in Fla. Stat. 163.3184(11) which governs adoption of ordinances by municipalities. The following is an overview of these procedures and requirements:

The local governing body must hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment. The advertising and scheduling requirements are governed by Fla. Stat. 163.3184(3) and (11), and by Fla. Stat. 166.041(3). Pursuant to Fla. Stat. 163.3184(11), “For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.”

Pursuant to this direction, the adoption procedure is as follows:

1. The first public hearing is held to decide whether to transmit the plan amendment to the reviewing agencies. An ordinance is not necessary for transmittal. A resolution is the appropriate local government action. The transmittal must be approved by no less than a majority of the members of the governing body present at the hearing.
2. The hearing must be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of chapter 166.
3. If the local government votes to transmit the proposed amendment, the local government must send the amendment with supporting data and analyses to the reviewing agencies within 10 days.
4. The agencies must send their comments to the local government within 30 days after receiving the amendment. The statute sets out in detail the limits on the scope of agency review.
5. After receipt of agency comments, the local government must hold a second public hearing for adoption. The statute allows 180 days for the adoption

hearing. If the hearing is not held within 180 days, the amendment is deemed withdrawn.

The plan amendment must be adopted by ordinance, approved by no less than a majority of the members of the governing body present at the hearing. The ordinance adoption process is also governed by Fla. Stat. 166.041(3)(a) as follows:

Except as provided in paragraph (c), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

As noted above, Fla. Stat. 163.3184(11) states that the notice requirements of subsection (11) supersede the requirements of Chapter 166. Subsection (11) states: "The hearing must be held on a weekday at least **7 days** after the day that the first advertisement is published pursuant to the requirements of chapter 166." (emphasis added)

We emphasize that the notice and hearing requirements for a zoning change are much more detailed and rigorous than the requirements for amending a comprehensive plan. The statute allows comprehensive plan amendments and zoning amendments to be processed concurrently. In fact, concurrent processing is required if an applicant requests such, Fla. Stat. 163.3184(12). A complete analysis of the notice and hearing requirements for concurrent zoning and plan amendments is beyond the scope of this memorandum.

For purposes of the comprehensive plan amendment, we note that the statute requires notice by mail only when the proposed ordinance changes the zoning map designation of property, or the list of uses allowed within a zoning category. See Fla. Stat. 166.041(3)(c). The City of Stuart's proposed plan amendment does neither, and therefore notice by mail is not required for the plan amendment.

If the amendment is adopted, the local government must forward a complete copy of the amendment and supporting data and analysis to the State Land Planning Agency and the reviewing agencies and local governments within 10 days. The State has 5 working days to notify the local government of any deficiencies in the

transmittal. Once the State notifies the local government that the amendment transmittal is complete, the amendment takes effect as follows:

An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government 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. Fla. Stat. 163.3184(3)(c)4.

The statute also includes detailed provisions governing a possible administrative challenge to a comprehensive plan amendment by the state land planning agency or an “affected person” alleging that the amendment is not “in compliance” with state statutes and related requirements. Fla. Stat. 163.3184(1)(5)-(9). Such a challenge must be filed within thirty (30) days after the amendment is adopted. A review the administrative process is beyond the scope of this memorandum.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Local Planning Agency

Meeting Date: 1/19/2017

Prepared by: Stephen Mayer

Title of Item:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AMENDING THE CITY'S COMPREHENSIVE PLAN; SPECIFICALLY AMENDING THE FUTURE LAND USE ELEMENT TABLE OF LAND USE DENSITIES AND INTENSITIES IN ORDER TO INCREASE THE MAXIMUM DENSITY CALCULATIONS FOR LOW DENSITY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL, OFFICE/RESIDENTIAL AND EAST STUART DISTRICT TO PROVIDE FOR CONSISTENCY WITH THE CITY'S EXISTING MINIMUM LOT SIZE REQUIREMENTS; APPROVING TRANSMITTAL OF THE COMPREHENSIVE PLAN TO THE DEPARTMENT OF ECONOMIC OPPORTUNITIES (DEO) AND OTHER RELEVANT AGENCIES AND LOCAL GOVERNMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

Due to a recent application for a minimum lot size reduction variance before the Board of Adjustment (BOA) and questions raised by an objecting neighbor as to how a site's maximum residential density should be calculated, a number of long-overlooked inconsistencies between the City's Comprehensive Plan and its LDC have been brought into light. Of note is the fact that state-mandated goals, policies and objectives contained in a jurisdiction's comprehensive plan are paramount and override any conflicting or errant language that may exist in its land development regulations. However, long-standing practices and existing residential lots have been developed contrary to comprehensive plan. In order to continue these practices, the comprehensive plan must be reviewed and amended to provide consistency.

Since its adoption in 1967, Stuart's Zoning Code -- now the LDC -- has set forth, without change, the following minimum lot sizes for residential lots in the R-1A, R-1, and R-2 duplex zoning districts: (R-1A 10,000, R-1 7,500, R-2 (Duplex) 7,500.

As a result, for nearly 50 years, a single-family or duplex lot meeting these minimum standards (as well as minimum lot width, impervious coverage limitations and setbacks) has been deemed compliant and issued a permit for development. Further, since 1967, the City's BOA has routinely granted lot size variances allowing single-family and duplex homes on smaller lots. In the late 1990's, prompted by Martin County's law suits over annexation, in accordance with Chapter 163 of Florida Statute, the City Commission made several remedial amendments to its Comprehensive Plan, thereby establishing a maximum of (7) seven dwelling units per acre (UPA) in the "Low-Density Residential" land use category, which generally encompasses R-1A, R-1 and R-2 duplex zoning districts. Sometime following this amendment, the LDC was (inexplicably) altered to include more restrictive density caps of (4) four units per acre (UPA) in the R-1A zoning category and (5) five UPA in the R-1 district. In 2007, the LDC was amended to include "cottage lot" provisions to encourage smaller lot development within older established subdivisions.

Furthermore, the Land Development Code establishes a density of 17 units per acre, which is reflective of the specific historic fabric of the East Stuart neighborhood. The Comprehensive Plan established 15 units per acre for the East Stuart district and therefore would need to be amended to be consistent.

Staff has performed an analysis of every residential zone and identified several zoning districts that were in conflict with the densities prescribed in the Comprehensive Plan. To resolve these conflicts, both the City's

Comprehensive Plan and its Land Development Code must be amended. First, staff drafted a text amendment to correct the inconsistencies of the Future Land Use Element and requested the assistance of legal consultants Robert Pennock and Bob Apgar, who are well known leaders in Comprehensive Planning in the State of Florida. We requested that they provide any legal or planning issues in regard to our draft and what the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment. Their memorandum is attached and states in summary, "The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-year Capital Improvements Schedule was needed...Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

In drafting this language to the Comprehensive Plan, staff has made an assumption that the Commission wishes to retain the status quo in terms of applying the same minimum lot size and density standards that have been observed since 1967. Therefore, staff recommends approval of the draft ordinance to the Future Land Use Element, increasing the maximum density calculations for Low Density Residential, Multi-Family Residential, Office/Residential (only for duplexes), and East Stuart District.

Staff has drafted a complimentary Ordinance (Ordinance No. 2332-2017) amending the Land Development Code and due to the mutual issues regarding the two different forms of text amendment, staff anticipates that both Ordinances will be given joint consideration.

Funding Source:

N/A

Recommended Action:

Staff recommends approval of Ordinance 2342-2017 and forwarding for consideration by the Stuart City Commission for first reading.

ATTACHMENTS:

Description	Upload Date	Type
❑ Staff Memo	1/13/2017	Staff Report
❑ Ordinance No. 2342-2017	1/13/2017	DRAFT ORDINANCE
❑ Attachment A - Future Land Use Text Amendment	1/13/2017	Attachment
❑ Residential Density Analysis	1/13/2017	Attachment
❑ Legal Consultant Memo	1/13/2017	Attachment

Memorandum

To: City Commission

From: Terry O'Neil, City Development Director

Cc: Paul Nicoletti, City Manager

Mike Mortell, City Attorney

Date: January 12, 2016

Re: Inconsistencies between the City's Comprehensive Plan and its Land Development Code (and within the LDC itself) in the application of maximum residential density calculations.

Due to a recent application for a minimum lot size reduction variance before the Board of Adjustment (BOA) and questions raised by an objecting neighbor as to how a site's maximum residential density should be calculated, a number of long-overlooked inconsistencies between the City's Comprehensive Plan and its LDC have been brought into light. Of note is the fact that state-mandated goals, policies and objectives contained in a jurisdiction's comprehensive plan are paramount and override any conflicting or errant language that may exist in its land development regulations. However, long-standing practices and existing residential lots have been developed contrary to comprehensive plan. In order to continue these practices, the comprehensive plan must be reviewed and amended to provide consistency.

Since its adoption in 1967, Stuart's Zoning Code -- now the LDC -- has set forth, without change, the following minimum lot sizes for residential lots in the R-1A, R-1, and R-2 duplex zoning districts:

Zone	Minimum lot size (Sq. Ft.)
R-1A	10,000
R-1	7,500
R-2 (Duplex)	7,500

As a result, for nearly 50 years, a single-family or duplex lot meeting these minimum standards (as well as minimum lot width, impervious coverage limitations and setbacks) has been deemed compliant and issued a permit for development. Further, since 1967, the City's BOA has routinely granted lot size variances allowing single-family and duplex homes on smaller lots. In the late 1990's, prompted by Martin County's law suits over annexation, in accordance with Chapter 163 of Florida Statute, the City Commission made several remedial amendments to its Comprehensive Plan, thereby establishing a maximum of (7) seven dwelling units per acre (UPA) in the "Low-Density Residential" land use category, which generally encompasses R-1A, R-1 and R-2 duplex zoning districts. Sometime following this amendment, the LDC was (inexplicably) altered to include more restrictive density caps of (4) four units per acre (UPA) in the R-1A zoning category and (5) five UPA in the R-1 district. In 2007, the LDC was amended to include "cottage lot" provisions to encourage smaller lot development within older established subdivisions.

Furthermore, the Land Development Code establishes a density of 17 units per acre, which is reflective of the specific historic fabric of the East Stuart neighborhood. The Comprehensive Plan established 15 units per acre for the East Stuart district and therefore would need to be amended to be consistent.

DENSITY CONFLICTS BETWEEN THE COMPREHENSIVE PLAN AND THE LDC AND WITHIN THE LDC ITSELF

Notwithstanding the facts that: (1) The same minimum lot sizes standards that have been in place since 1967, (2) The BOA has maintained a long-standing practice of granting lot size variances, and (3) The 2007 “Cottage Lot” ordinance was adopted specifically to encourage in-fill development, if the CP’s and the LDC’s “newly interpreted” density standards are applied, a host of older lots may remain vacant or underdeveloped.

Staff has performed an analysis of every residential zone and identified several zoning districts that were in conflict with the densities prescribed in the Comprehensive Plan. The following table summarizes the lot size versus density conflicts for zones staff recommends corrective text amendments:

	Current minimum lot size per LDC (Sq. Ft.)	Required lot size if CP’s 7 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 4 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 5 UPA cap is applied (Sq. Ft.)	Required lot size if LDC’s 7 UPA density caps applied (Sq. Ft.)	Lot meets CP’s density cap	Lot meets LDC’s density cap
R-1A	10,000	6,222	10,890	NA	NA	Yes	No
R-1	7,500	6,222	NA	8,712	NA	Yes	No
R-2 duplex	7,500	12,444	NA	NA	12,444	No	No

Fixing the problem

To resolve these conflicts, both the City’s Comprehensive Plan and its Land Development Code must be amended. First, staff drafted a text amendment to correct the inconsistencies of the Future Land Use Element and requested the assistance of legal consultants Robert Pennock and Bob Apgar, who are well known leaders in Comprehensive Planning in the State of Florida. We requested that they provide any legal or planning issues in regard to our draft and what the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment. Their memorandum is attached and states in summary, “The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-year Capital Improvements Schedule was needed...Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

In drafting this language to the Comprehensive Plan, staff has made an assumption that the Commission wishes to retain the status quo in terms of applying the same minimum lot size and density standards that have been observed since 1967. Therefore, staff recommends approval of

the draft ordinance to the Future Land Use Element, increasing the maximum density calculations for Low Density Residential, Multi-Family Residential, Office/Residential (only for duplexes), and East Stuart District.



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

ORDINANCE NUMBER 2342-2017

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AMENDING THE CITY'S COMPREHENSIVE PLAN; SPECIFICALLY AMENDING THE FUTURE LAND USE ELEMENT TABLE OF LAND USE DENSITIES AND INTENSITIES IN ORDER TO INCREASE THE MAXIMUM DENSITY CALCULATIONS FOR LOW DENSITY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL, OFFICE/RESIDENTIAL AND EAST STUART DISTRICT TO PROVIDE FOR CONSISTENCY WITH THE CITY'S EXISTING MINIMUM LOT SIZE REQUIREMENTS; APPROVING TRANSMITTAL OF THE COMPREHENSIVE PLAN TO THE DEPARTMENT OF ECONOMIC OPPORTUNITIES (DEO) AND OTHER RELEVANT AGENCIES AND LOCAL GOVERNMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE, AND FOR OTHER PURPOSES.

*** * * * ***

WHEREAS, Section 163.3184, Florida Statutes, provides for the authority and procedure to the local government to amend its Comprehensive Plan as needed to ensure that the plan provides appropriate policy guidance for growth and development; and

WHEREAS, the City Commission of the City of Stuart, Florida adopted its last Evaluation and Appraisal Report (EAR) based Comprehensive Plan amendments in September 27, 2010.

WHEREAS, the densities established in the Comprehensive Plan serve to provide specific density and intensity measures allowed in each land use category.

WHEREAS, the City of Stuart recognizes the importance of discouraging urban sprawl by facilitating urban development and infill development in order to achieve a more compact urban form.

WHEREAS, the Local Planning Agency of City of Stuart reviewed the proposed amendments to the Comprehensive Plan at a public hearing on ____, 2017; and

WHEREAS, on ____, 2017 at a duly advertised public hearing, the City Commission considered the proposed Comprehensive Plan amendments, attached hereto as Attachment "A" and authorized transmittal of the proposed amendments to the Department of Economic Opportunities (DEO) and appropriate agencies and local government; and

WHEREAS, the City Commission has provided for full public participation in the comprehensive plan amendment process and has considered and responded to public comments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, that:

SECTION 1: The City Commission hereby finds and determines that the approval of the Future Land Use Element attached hereto as Attachment "A" is consistent with the goals, objectives and policies of the City of Stuart Comprehensive Plan as amended.

SECTION 2: The City Commission does hereby approve transmittal of the Comprehensive Plan amendments for the purpose of a final order determining this adopted amendment to be in compliance.

SECTION 3: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 4: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5: The provisions of this ordinance shall be codified.

SECTION 6: The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED on First Reading this th day of _____, 2017.

Commissioner _____ offered the following ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

EULA R. CLARK, MAYOR
THOMAS CAMPENNI, VICE MAYOR
TROY A. MCDONALD, COMMISSIONER
KELLI GLASS-LEIGHTON, COMMISSIONER
JEFFREY A. KRAUSKOPF, COMMISSIONER

YES	NO	ABSENT

ADOPTED on Second Reading this _____ day of _____, 2017.

ATTEST:

CHERYL WHITE
CITY CLERK

JEFFREY A. KRAUSKOPF
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL, CITY ATTORNEY

DRAFT

Element I

FUTURE LAND USE ELEMENT

Goals, Objectives, and Policies

City of Stuart, Florida

Policy A7.2. Gross densities, gross intensities and proportional use amounts for each land use category are established in the “Table of Land Use Densities and Intensities” that is adopted as part of this element.

Table of Land Use Densities and Intensities

Land Use Category	In/Out CRA ¹	Residential				Non-Residential			
		General	Not A _{CLF} ⁴	A _{CLF}	>15 du/acre ⁵	%residential	General	>2.0 FAR ³	%non-residential
Low Density Residential	NA	<7 du/ae <9 du/ac Single Family <14 du/acre Duplex ⁵	<7 du/ae <9 du/ac Single Family <14 du/acre Duplex ⁵	none	None	95-100	<0.75 FAR		0-5%
Multi-Family Residential	In	<15 du/ac	<15 du/ae <30 du/ac	<30 du/ac	<5 ae	70-100	<3.0 FAR	<20 ac	0-30%
	Out	<10 du/ac multi-family <14 du/acre Duplex	<15 du/ae <30 du/ac	<30 du/ac	<40 ae	70-100	<0.5 FAR		0-30%
Commercial	In	<15 du/ac	<15	<30 du/ac	<5 ae	0-15	<3.0 FAR	<50 ac	85-100%
	Out	<10 du/ac	<10	<30 du/ac	<25 ae	0-15	<1.5 FAR		85-100%
Office/Residential	In	<15 du/ac	<15 du/ae <30 du/ac	<30 du/ac	<5 ae	0-25	<3.0 FAR	<10 ac	75-100%
	Out	<10 du/ac multi-family <14 du/acre Duplex	<10 du/ae <30 du/ac	<30 du/ac	<5 ae	0-25	<1.5 FAR		75-100%
Industrial	In	None				0	<3.0 FAR	<10 ac	100%
	Out	None				0	<1.0 FAR		100%
Public		None				0	<1.0 FAR		100%
Institutional		<10 du/ac	<30 du/ac	<30 du/ac	<5 ae	0	<0.75 FAR		100%
Recreation		None					<0.5 FAR		100%
Downtown Redevelopment		<15 du/ac ⁸	<30 du/ac	<30 du/ac	<25 ae	0-70	<4.0 FAR	<50 ac	0-70% ⁶
Neighborhood/ Special District	In	<15 du/ac		<30 du/ac	<5 ae	30-90	<3.0 FAR	<10 ac	10-70%
	Out	<15 du/ac		<30 du/ac	<5 ae	30-90	<2.0 FAR		10-70%
East Stuart	NA	<15 du/ae <17 du/ac	<15 du/ae <17 du/ac	<30 du/ac	<5 ae	70-100	<1.5 FAR		0-30%

Conservation		None				0	<10% ISR		100%
Marina/Industrial		<15 du/ac	<15 du/ac	NA	<5 ac	0-25	<3.0 FAR	<5 ac	0-75%

¹CRA = Community Redevelopment Agency. A delineated area

²RPUD = Residential Planned Unit Development; ~~Major UCE = Major Urban Code Exception~~ Major UCCU = Major Urban Code Conditional Use

³The total number of acres in developments approved and constructed after the policy effective date that exceed 2.0 FAR shall not exceed the specified amount.

⁴ALF = ~~Assisted Adult Congregate~~ Living Facility

⁵~~The Total number of acres in developments approved and constructed after the policy effective date that exceed 15 du/ac shall not exceed the specified amount and shall be approved via a Planned Unit Development or Major Urban Code Exception~~

5 The low density residential category is compatible with single family and duplex development. The maximum density for single family dwelling units is nine (9) units per acre and the maximum density for a duplex is fourteen (14) units per acre, provided that said development shall be consistent with the City's Land Development Code performance standards.

⁶Recreation uses shall not exceed 25 percent of the land area

⁷ISR = Impervious surface ratio. Not to exceed 10,000 square feet for any contiguous parcel.

⁸Shall be interpreted on an Urban Subdistrict basis within the CRA (including Urban Neighborhood, Urban General, Urban Center, Urban Waterfront, and Urban Highway)

Note: Throughout the City, properties located in the Coastal High Hazard Area (CHHA), as identified on the future land use map in the Coastal Element of the Comprehensive Plan, are limited to 15 dwelling units per acre unless the applicant can demonstrate to comply with Florida Statute 163.3178 (9)(a)1,2 and 3. ALFs shall continue to be prohibited within the Coastal High Hazard Area.

RESIDENTIAL DENSITY ANALYSIS

		COMPREHENSIVE PLAN					SCENARIO	LAND DEVELOPMENT CODE				
	Land Use	Max. density per acre per Comp Plan	Total acres of LDR in City	Max. number of units allowed by Comp Plan	Approximate number of existing residential units	Percent of density used of allowed density by Comp Plan	Zoning	Density cap per LDC	Sq. feet required per unit per LDC (43,560 sq. ft. divided by density cap)	Min Lot Size per LDC	Use specifically permitted by LDC	Does LDC's minimum lot size comply with maxim density per LDC
1	Low Density Residential	7	821.61	5,751	2,632	46	R-1A	4 (4.36)	10,890 sq. ft.	10,000 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-1	5 (5.9)	8,712 sq. ft.	7,500 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-2 (Single-family)	7 (7.27)	6,222 sq. ft./unit or 12,444 sq. ft. total	6,000 sq. ft.	Single Family	No
	Low Density Residential	7	821.61	5,751	2,632	46	R-2 (Two-family)	7 (13.4)	6,222 sq. ft./unit or 12,444 sq. ft. total	7,500 sq. ft.	Duplex	No
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Single- family)	4	10,890 sq. ft.	None	Single-family	N/A
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Two-family)	7	6,222 sq. ft./unit or 12,444 sq. ft. total	None	Two- family	N/A
	Low Density Residential	7	821.61	5,751	2,632	46	RPUD (Multi-family - 3 units/Comp Plan doesn't allow MF)	15	2,904 sq. ft./unit or 8,712 sq. ft. total	None	Multi-family (3 units)	N/A
	Low Density Residential	30	821.61	24,648	2,632	11	RPUD (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, Two-family and Multi-family (3 units or more)	N/A
2	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Single-family)	10 (7.26)	4,356 sq. ft.	6,000 sq. ft.	Single-family	Yes
	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Two-family)	10 (11.62)	4,356 sq. ft/unit or 8,712 square feet total	7,500 sq. ft.	Two- family	No
	Multi-family Res. (MFR): Outside UCD-CRA	10	496.73	4,967	3,673	74	R-3 (Multi-family - 3 units)	10 (13.07)	4,356 sq. ft/unit or 13,068 square feet total	10,000 sq. ft.	Multi-family (3 units)	No
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Single- family)	4	10,890 sq. ft.	None	Single-family	N/A
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Two-family)	7	6,222 sq. ft./unit or 12,444 sq. ft. total	None	Two- family	N/A
	Multi-family Res. (MFR): RPUD Inside or Outside UCD-CRA	15	496.73	7,451	3,673	49	RPUD (Multi-family - 3 units)	15	2,904 sq. ft./unit or 8,712 sq. ft. total	None	Multi-family (3 units)	N/A
	Multi-family Res. (MFR): RPUD Inside UCD-CRA	30	496.73	14,902	3,673	25	Urban Code Conditional Use	30	1,452 sq. ft./unit	None	Single-family, Two-family and Multi-family (3 units or more)	N/A
	Multi-family Res. (MFR): Inside UCD-CRA - DOES NOT EXIST	15	496.73	7,450	3,673	49	DOES NOT EXIST					
	Multi-family Res. (MFR): Inside UCD-CRA - DOES NOT EXIST	30	496.73	14,901	3,673	25	DOES NOT EXIST					

RESIDENTIAL DENSITY ANALYSIS

3	East Suart	15	55.97	839	533	64	BMU, GRO	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	BMU, GRO (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	RPUD (BMU, GRO)	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	RPUD (BMU, GRO/ Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	East Suart	15	55.97	839	533	64	SFD	17	2,562 sq. ft./unit	None	Single-family and Two-family	N/A
4	Downtown Redevelopment (DTR)	15	219.42	3,291	529	16	UH, UG, UC, UW, UN	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Downtown Redevelopment (DTR)	30	219.42	6,582	529	8	UH, UG, UC, UW, UN/Conditional Use	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Downtown Redevelopment (DTR)	30	219.42	6,582	529	8	RPUD (UH, UG, UC, UW, UN)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
5	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Single-family)	10	4,356 sq. ft./unit	10,000	Single-family	Yes
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Two-family)	10	4,356 sq. ft./unit or 8,712 sq. ft. total	10,000	Two- family	Yes
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Multi-family)	10	4,356 sq. ft./unit or 13,068 sq. ft. total	10,000	Multi-family (3 units)	No
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	R-3 (Residential units with business)	10	4,356 sq. ft. (Single-family); 8,712 sq. ft. (Two-family); 13,068 sq. ft. (3 units total)	10,000	Single-family, two-family and Multi-family (3 units or more)	Yes/Yes/No
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	RPUD	15	2,904 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Office/Residential: Outside UCD-CRA	10	138.12	1,381	527	38	RPUD (Conditional Use)	30	1,452 sq. ft./unit	None	Single-family, two-family and Multi-family (3 units or more)	N/A
	Office/Residential: Inside UCD-CRA - DOES NOT EXIST	15	138.12	2,072	527	25	DOES NOT EXIST					

MEMORANDUM

TO: City of Stuart, Florida

FROM: Robert C. Apgar, Esquire
Robert Pennock, Ph.D., AICP

RE: Review of Proposed Comprehensive Plan Amendment

DATE: December 20, 2016

This is written in response to a request from the City of Stuart that Apgar and Pennock review the attached draft amendment to comprehensive plan Policy A.7.2 (“the amendment”) and respond to the following questions:

1. Does the proposed amendment raise any legal or planning issues that might support an administrative or judicial challenge to the amendment? Is there anything missing that would be important to the validity of the amendment?
2. What are the legal procedures and notice requirements that the City must satisfy for adoption of the plan amendment.

Response to Question 1: legal and planning issues.

The proposed amendment would increase the maximum density allowable in certain land use categories; delete limitations on the total number of acres in development that exceed 15 dwelling units per acre; and add or amend footnotes for clarification. The amendment does not raise any legal issues, nor is any additional amendment necessary to establish its validity, unless the supporting data and analysis showed that an amendment to the 5-Year Capital Improvements Schedule was needed. The amendment is clearly within the City’s authority and responsibility under the Community Planning Act, Chapter 163, Part II, Florida Statutes. Moreover, the amendment would not decrease the possible density or intensity of development, thereby avoiding any issues under the Bert Harris Act, Chapter 70, Florida Statutes.

There are, however, some minor issues that should be addressed. Footnote 5 describes “flexible densities having a base of nine (9) units per acre for single family dwelling units and a maximum of fourteen (14) units per acre for duplexes . . .” The term “base” is not commonly used in regulatory documents and could be confusing. From the context, “base” appears to indicate a maximum number of single family units. If so, “maximum” would be a better term to use.

Further, we recommend that

- The maximum of 14 units per acre for duplexes be stated in the Table of Land Use Densities and Intensities. In general, all minimum and maximum limits should appear in the land use table, not in footnotes.
- The conditional language regarding compatibility would be better placed in a future land use element policy and this footnote could reference that policy.
- Footnote 2 changes the term UCE to UCCU. This acronym should also be changed in the Table of Land Use Densities and Intensities.

Finally, the “Note” that follows the numbered footnotes states that properties in the Coastal High Hazard Area are limited to a maximum of 15 units per acre except in certain cases, and ALF’s are prohibited. The City should insure that this restriction is stated in a policy or objective in the FLU element or the Coastal Element of the Plan. The Note should reference the applicable policy or objective.

The amendment must be supported by data and analysis providing the planning rationale for the amendment and showing the effect of these density increases.

The data and analysis could include the following:

- A recent review of the land development regulations, particularly Chapter 2, showed that in some instances the land development regulations, if read independently from the comprehensive plan, could cause some confusion regarding what densities are allowed in particular circumstances. This proposed plan amendment, along with subsequent revisions to the land development regulations, is intended to provide clarity and certainty with regard to the maximum residential densities that may be allowed.
- Also, these plan amendments support several important planning goals including the discouragement of urban sprawl, increased opportunities for affordable housing, and economic development within the City. (this should be expanded by City)
- Supporting data and analysis is required by section 163.3177 F.S. The DEO website <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/how-to-prepare-and-submit-a-proposed-expedited-state-review-comprehensive-plan-amendment> outlines these requirements which include: A description of availability of and the demand on sanitary sewer, solid waste, drainage, potable water and water supply, traffic circulation, schools (if local government has adopted school concurrency), and recreation, as appropriate.
 - This may require changes to the Capital Improvements Schedule – but this appears unlikely.

- Note that an impact analysis should take into account the population projections.
- An analysis of extra-jurisdictional impacts, if any.

Response to Question 2: Procedures for adoption.

This Memorandum provides an overview of the adoption process. It does not, however, repeat all of the detailed requirements of the statute, Fla. Stat. 163.3184. The City Staff must review the statute to insure that all requirements are met.

First, the proposed plan amendment must be reviewed by the local planning agency (“LPA”) pursuant to Fla. Stat. 163.3174. The LPA must hold at least one public hearing on the plan amendment. The LPA must make a recommendation to the local government, including whether the proposed amendment is consistent with the local comprehensive plan.

The procedures for the City Commission to adopt the proposed amendment are set out in Fla. Stat. 163.3184(3), known as the Expedited State Review Process, and 163.3184(11), which describes the public hearings and method of adoption. Additional requirements are set out in Fla. Stat. 163.3184(11) which governs adoption of ordinances by municipalities. The following is an overview of these procedures and requirements:

The local governing body must hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment. The advertising and scheduling requirements are governed by Fla. Stat. 163.3184(3) and (11), and by Fla. Stat. 166.041(3). Pursuant to Fla. Stat. 163.3184(11), “For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.”

Pursuant to this direction, the adoption procedure is as follows:

1. The first public hearing is held to decide whether to transmit the plan amendment to the reviewing agencies. An ordinance is not necessary for transmittal. A resolution is the appropriate local government action. The transmittal must be approved by no less than a majority of the members of the governing body present at the hearing.
2. The hearing must be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of chapter 166.
3. If the local government votes to transmit the proposed amendment, the local government must send the amendment with supporting data and analyses to the reviewing agencies within 10 days.
4. The agencies must send their comments to the local government within 30 days after receiving the amendment. The statute sets out in detail the limits on the scope of agency review.
5. After receipt of agency comments, the local government must hold a second public hearing for adoption. The statute allows 180 days for the adoption

hearing. If the hearing is not held within 180 days, the amendment is deemed withdrawn.

The plan amendment must be adopted by ordinance, approved by no less than a majority of the members of the governing body present at the hearing. The ordinance adoption process is also governed by Fla. Stat. 166.041(3)(a) as follows:

Except as provided in paragraph (c), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

As noted above, Fla. Stat. 163.3184(11) states that the notice requirements of subsection (11) supersede the requirements of Chapter 166. Subsection (11) states: "The hearing must be held on a weekday at least **7 days** after the day that the first advertisement is published pursuant to the requirements of chapter 166." (emphasis added)

We emphasize that the notice and hearing requirements for a zoning change are much more detailed and rigorous than the requirements for amending a comprehensive plan. The statute allows comprehensive plan amendments and zoning amendments to be processed concurrently. In fact, concurrent processing is required if an applicant requests such, Fla. Stat. 163.3184(12). A complete analysis of the notice and hearing requirements for concurrent zoning and plan amendments is beyond the scope of this memorandum.

For purposes of the comprehensive plan amendment, we note that the statute requires notice by mail only when the proposed ordinance changes the zoning map designation of property, or the list of uses allowed within a zoning category. See Fla. Stat. 166.041(3)(c). The City of Stuart's proposed plan amendment does neither, and therefore notice by mail is not required for the plan amendment.

If the amendment is adopted, the local government must forward a complete copy of the amendment and supporting data and analysis to the State Land Planning Agency and the reviewing agencies and local governments within 10 days. The State has 5 working days to notify the local government of any deficiencies in the

transmittal. Once the State notifies the local government that the amendment transmittal is complete, the amendment takes effect as follows:

An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government 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. Fla. Stat. 163.3184(3)(c)4.

The statute also includes detailed provisions governing a possible administrative challenge to a comprehensive plan amendment by the state land planning agency or an “affected person” alleging that the amendment is not “in compliance” with state statutes and related requirements. Fla. Stat. 163.3184(1)(5)-(9). Such a challenge must be filed within thirty (30) days after the amendment is adopted. A review the administrative process is beyond the scope of this memorandum.