To: Council Members                                      AGENDA ITEM 11

From: Staff

Date: May 17, 2013 Council Meeting

Subject: Local Government Comprehensive Plan Review
          Draft Amendment to the Martin County Comprehensive Plan
          Amendment No. 13-1ESR

Introduction

The Community Planning Act, Chapter 163, Florida Statutes, requires that the Treasure Coast Regional Planning Council (TCRPC) review local government comprehensive plan amendments prior to their adoption. TCRPC comments are limited to adverse effects on regional resources and facilities identified in the Strategic Regional Policy Plan (SRPP) and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any local government within the Region. TCRPC must provide any comments to the local government within 30 days of the receipt of the proposed amendments and must also send a copy of any comments to the State Land Planning Agency.

The amendment package from Martin County includes three amendments to the Future Land Use Map (FLUM) of the comprehensive plan, and two text amendments. This report includes a summary of the proposed amendments and TCRPC comments.

Summary of Proposed Amendments

Gateway Campus II

The proposed amendment is to change the FLUM designation from Residential Estate Density to General Commercial on 0.65 acres located between I-95 and the west side of SW Lost River Road. This triangle-shaped property is adjacent to I-95 to the west and south. The adjacent property to the north is designated General Commercial, and the adjacent property to the east is designated Recreational. The subject site is vacant and has been cleared. The Martin County staff report indicates that the proposed change in FLUM designation would correct what would otherwise appear to be an inappropriate land use designation. The property is located in the Primary Urban Service District (PUSD) where adequate public services are available.
**Mulberry Tree Foundation**

The proposed amendment is to change the FLUM designation from Commercial Office/Residential to Commercial Limited on 2.07 acres located on the west side of South Kanner Highway, just north of SW Linden Street. The adjacent property to the north is designated Commercial Limited, and the adjacent property to the east is designated Rural Heritage, which includes lands that have historically been small farms but now lie in the urban service districts. The adjacent properties on the east side of South Kanner Highway are designated Commercial Limited and Mobile Home. The property contains a small office building. Only 0.80 acres of the 2.07-acres site are available for development, because the remainder of the site is encumbered by easements. The applicant requested the land use change to accommodate a portion of the existing building for a thrift store. The subject property is located in the PUSD where adequate public services are available.

**Beau Rivage**

The proposed amendment is to assign a FLUM designation of Low Density Residential to a 163-acre area known as Beau Rivage. The subject property is currently an enclave in St. Lucie County. On March 8, 2012, Governor Rick Scott signed Senate Bill 800 into law to provide for a referendum to be placed on the August 14, 2012 primary ballot for residents in the area to vote if they wanted to be transferred from St. Lucie County into Martin County. Affected enclave area residents voted in favor of the referendum. The legislation providing for the transfer of Beau Rivage from St. Lucie County to Martin County will become effective on July 1, 2013.

The area is comprised of several residential subdivisions including: Beau Rivage Heights; Beau Rivage Estates; Eventide; Blair; Howard Creek Estates; Bay Colony; and the Plantations. The entire area is single-family residential and contains 240 home sites. The area is substantially built-out with only 15 of the single-family lots remaining undeveloped. The access to this area is by way of NW Britt Road in Martin County.

The Martin County staff report indicates that Martin County’s Low Density Residential land use designation is compatible with St. Lucie County’s Residential Urban land use designation, which is currently applied to the Beau Rivage area. Both land use designations provide for a maximum of 5 units per acre. The subject property is located in the PUSD where adequate public services are available.

**Beau Rivage Figures and Text Amendment**

The proposed amendment is to change the 32 Figures (Maps) that are incorporated into the comprehensive plan by reference to include the Beau Rivage community described above. The transfer of parcels from St. Lucie County to Martin County has resulted in a boundary change for both Martin and St. Lucie counties. The proposed change will correctly display the new limits of Martin County on any map that shows the area of Beau Rivage.
Chapters 1, 2, and 4 Text Amendment

The proposed amendment includes major changes to the narrative and goals, objectives, and policies in Chapters 1 – Preamble, Chapter 2 – Definitions, and Chapter 4 – Future Land Use Element of the comprehensive plan. The proposed changes are available as a supplement to this report on Council’s website. Major changes in the comprehensive plan are noted below:

Chapter 1 – Preamble

- Section 1.1. – Purpose. This section is amended to clarify the purposes of the comprehensive plan and include text indicating the more restrictive requirements of this chapter and overall goals, objectives, and policies of Chapter 2 shall supersede other parts of the plan when there is a conflict.

- Section 1.2. – Scope. This section is amended to indicate that all planning decisions made by the County shall be based upon a consideration of impacts on the ecology, quality of life, and fiscal sustainability of such actions including the long term cumulative impacts. This section is also amended to indicate the County shall protect taxpayers by requiring conservative and prudent fiscal management and a financially feasible comprehensive plan which assures and requires that development pay for itself to the maximum extent allowed by law, rather than being subsidized by taxpayers.

- Section 1.4. – Comprehensive Basis. This section is amended to indicate that no amendment to this plan or development order shall be adopted which is inconsistent with any requirement of this Chapter or other goal, objective, or policy of this plan. Amendments and development orders shall be deemed consistent with the intent of the plan when land uses, densities or intensities, and environmental protection measures further the goals, objectives, and policies of this plan. Where one or more policies diverge, the stricter requirement shall apply.

- Section 1.5. – Economic Principles. This section is amended to indicate Martin County shall provide for fairness, efficiency, and predictability in its actions in order to provide a healthy business climate; encourage a high quality public school system; and emphasize the protection of water resources.

- Section 1.7. – Supporting Data. This section is amended to include new standards for calculating population projections; future housing needs estimate; residential capacity calculations; and peak and weighted average population for level of service determination.

- Section 1.8. Continuing Evaluation. This section is amended to indicate that an Evaluation and Appraisal Report (EAR) must be done every 5 years beginning in 2016. The EAR shall be completed within one year of the availability of new population information from the U.S. Census. Within 12 months of the completion of any EAR, the Commission shall adopt any comprehensive plan amendments that, in its judgment, are required to resolve any conflicts or concerns identified in the report such as failures to
achieve planning goals or to appropriately respond to new information. This section also includes updated criteria for continuing evaluation of comprehensive plan elements.

- Section 1.9. – Public Participation. This section is amended to ensure the public shall have the right to speak and to ask questions at the meetings and public workshops of the county commission and local planning agency at which amendments to the comprehensive plan or land development regulations, or approval of development orders are being considered. The section also includes a Citizens Planning Bill of Rights, which requires notification of surrounding property owners within 1,000 feet when a proposed FLUM amendment is inside the Urban Service Districts. It requires 2,500 feet for amendments outside the Urban Service Districts. A Cooling Off period is established to prevent changes to a plan amendment seven business days prior to a public hearing.

- Section 1.10. – Plan Implementation. This section is amended to indicate that all development and amendments to the comprehensive plan must be consistent with Chapter 1. The term “development” is defined to include the clearing of native vegetation. This section includes the following sentence: “For the purposes of the Comprehensive Growth Management Plan, the term “development” shall have the broadest definition of the term authorized by Florida law including the carrying out of any building activity or mining operation, clearing of native vegetation, the making of any material change in the redevelopment or modification of an existing use or appearance of any structure or land which creates additional impacts, and the dividing of land into three or more lots, tracts or parcels (including planned unit developments).”

- Section 1.11. – Amendment Procedures. This section is amended to require proof of ownership be provided for any amendment application; specify that applications shall be submitted between September 1 and September 30 each year; specify amendment review criteria; specify county commission actions; and require a super-majority of four votes for transmittal and adoption hearings on critical issues, including:
  
  o A change to increase the four-story height limit.
  o More than 15 units to the acre in any land use.
  o Expansion of the urban service district or other specified activities outside the urban service district.
  o Increased negative impacts on the estuary.
  o Adverse affect to the water supply.
  o Decrease to flood protections.
  o Changes to wetland protection requirements.
  o Changes to the requirement that development pay its proportionate share.
  o Reductions to concurrency requirements.
  o Any amendment to the text of the plan which applies to a single property.
  o Any amendment that changes the provision regarding a super-majority vote.

- Section 1.12. – Vested Rights. This section is modified to indicate amendments to the timetable of a development application of more than 5 years require the development to be consistent with the comprehensive plan as currently adopted. Also, timetable
violations for a Planned Unit Development must be brought to the Board within 60 days. Breach proceedings must be initiated for a Planned Unit Development timetable violation of more than one year.

Chapter 2 – Definitions

- Section 2.1. – Overall goals for Martin County’s Comprehensive Growth Management Plan. This new section indicates the overall goals for the comprehensive plan are keyed to maintaining quality residential and nonresidential uses, natural resource conservation and preservation of beneficial and protective natural systems, enhanced economic development, and fiscal conservancy.

- Section 2.2. – Goals, Objectives, and Policies. This new section adds four overall goals along with supporting objectives and policies to the plan. These are summarized below:

  - Goal 2.1. Martin County shall broaden, enhance and protect the quality of life of Martin County residents. The objectives and policies under this goal address the following issues: text and FLUM amendments; density restrictions; building height restrictions; protection from encroachment by adjacent land uses; compatibility of adjacent development; maintaining an accurate inventory of land uses; and maintaining objective measures of quality of life.

  - Goal 2.2. Martin County shall assure natural resource conservation and conservation of the area’s natural communities. The objectives and policies under this goal address the following issues: wetland preservation; wetland definition; exceptions to wetland alteration; wetland mitigation; wetland maintenance guarantees; wetland restoration; compliance with preserve area management plans; preservation of native upland habitat and threatened and endangered plant and animal species; protection of the St. Lucie River Estuary and Indian River Lagoon; support for the Comprehensive Everglades Restoration Plan; encouragement of agency rule changes to move water south; ensuring runoff will recreate natural conditions; protection of shorelines, mangroves, seagrasses and oyster bars in estuaries; local programs to reduce pollution in runoff; shoreline protection zone requirements and exceptions; restrictions of hardening of the shoreline; protection of the Loxahatchee River; and protection of the freshwater aquifer.

  - Goal 2.3. Martin County shall promote orderly and balanced economic growth while protecting natural resources, enhancing the quality of life in Martin County and providing prudent fiscal management. The objectives and policies under this goal address the following issues: land use regulations that will encourage economic development; clear standards for issuing permits; simplified application requirements for existing industrial parks; creation of a concurrency database; concurrency standards and enforcement; economic health; maintaining and updating economic information; and support the county’s public schools and an incentive to business creation, expansion, and relocation.
Goal 2.4. Prudent fiscal management shall be a primary goal in all county actions and in all development approvals. The objectives and policies under this goal address the following issues: limiting local tax burdens; impact fees adjusted to assure that growth pays for itself; requiring open meetings and transparency in decision making; creation and maintenance of a database for objective indicators of fiscal conservancy; use of the Capital Improvement Plan to assure that concurrency management strategies are fiscally feasible; coordinated management of development timetables; limiting commercial and industrial land use approvals to that needed for projected population growth for the next 15 years; development order limitations on vested rights; limitation of urban development approvals and comprehensive plan amendments; and agricultural tax classification.

• Section 2.3. – Rules of Interpretation. This section is amended to indicate that where provisions conflict, the more restrictive requirement shall govern.

• Section 2.4. – Definitions. This section modifies or adds new definitions for the following terms: active development; best available means; consistent; development; housing in actual use; material change; natural conditions; persons per household; population, permanent; population, household; population, seasonal (facility needs); population, seasonal (housing needs); residential development racking system; scrivener’s error; unhardened shoreline; urban sprawl; urban development; and vacant seasonal housing.

Chapter 4 – Future Land Use Element

• Section 4.2. – Analysis of Land Use Features. This section is amended to update the data and analysis portion of the Future Land Use Element. Some of the data used will remain such as Census data and the use of medium population projections from the Bureau of Economic and Business Research. Seasonal and permanent population projections have been calculated in the past and must continue to be calculated because it is a requirement of Chapter 163, Florida Statutes. The formula for calculating housing unit need has changed from existing Plan policy. The data to be included in residential capacity calculations has also changed. It now includes vacant single family or duplex lots platted as of 1982, and after 1982. It also includes constructed residential units considered excess vacant housing units. New text has been proposed requiring permanent population estimates and projections to be published to the Martin County web site and updated annually. New text has been proposed requiring the residential capacity of the unincorporated portion of the county be published to the Martin County web site and updated every five years. This section includes a new list of the required data related to residential capacity. New text is also proposed requiring the residential capacity data to be presented with the projected population increases to demonstrate both the 10 year capacity and the 15 year capacity for the Eastern and Indiantown Urban Service Districts.

• Section 4.4. – Goals, Objectives, and Policies. This section revises and adds several objectives and policies to the plan. These are summarized below:
o Objective 4.1D. Martin County shall continue to collect and monitor development and population data to ensure sufficient land to address projected population needs while controlling urban sprawl and maintaining a cost effective Capital Improvements program. The new or revised policies under this objective address the following issues: production of a population technical bulletin; future residential housing needs; residential capacity analysis production; residential capacity analysis use; and development of an active residential development tracking system.

o Objective 4.1F. Density allocations and intensity. All projects must comply with the provisions of the concurrency management system (Goal 4.1) to assure all required services are available. The new or revised policies under this objective address the following issues: projects directly adjacent to lands used or designated for higher intensity use may be given maximum density; projects immediately adjacent to lands used or designated for lower density use should be given less than maximum density; criteria for evaluating features of adjacent properties; height limits; and density allocation of Indiantown Development of Regional Impact.

o Policy 4.7A.6. Any proposed amendment to either the Primary Urban Service District or the Secondary Urban Service District boundaries shall be considered only after the regular update to the Residential Capacity Analysis and an analysis that public facilities are available to fully serve land in the two existing urban service districts as well as any potential expansion of an urban service district. The Board of County Commissioners must adopt both studies before applications for amendments to the Primary or Secondary Urban Service Districts can be determined complete.

Comments from Local Governments and Organizations

On April 29, 2013, TCRPC requested comments from nearby local governments and organizations that have expressed an interest in reviewing amendment materials. As of the date of the preparation of this report, no objections to the proposed amendments have been received from other local governments or agencies. No extrajurisdictional impacts have been identified.

Comments from Citizens

Council has received letters from citizens expressing objections and concerns to text amendments in Chapters 1, 2, and 4. In a letter dated April 18, 2013 (Exhibit 11), Lee Weberman has objected the requirement of a super-majority vote included in Chapter 1 – Preamble, Sections 1.11.D(6); and Chapter 2 – Definitions, Policy 2.4A.4. Key comments in Mr. Weberman’s letter are summarized below:

1. Super-majority votes are so unique that the Florida Legislature specifically identifies where they are permissible. Non-charter counties cannot include super-majority votes in
their comprehensive plan amendment requirements because they are not specifically identified by the legislature as a local voting option.

2. Section 163.3161(10), Florida Statutes, prohibits comprehensive plan amendments that are unduly restrictive of property rights. Super-majority votes are unduly restrictive.

3. Propose super-majority policy Section 1.11D(6) (paragraphs d, e, f, g, h, and i) are unpredictable, vague, and subject to interpretation.

Mr. Weberman has indicated that he believes that Martin County’s actions on the super-majority vote issue are invalid, and he would support an Attorney General’s opinion on this issue.

In a letter dated May 8, 2013 (Exhibit 12), Kenneth G. Oertel has raised concerns that the proposed text changes in Chapters 1, 2, and 4 will adversely impact several key state resources and property rights of citizens. Mr. Oertel indicated the proposed amendments will cause substantial uncertainty, and inhibit, and in some cases prohibit, agricultural operations, commercial development, and industrial development. Mr. Oertel’s letter also indicates that the proposed plan amendments seek to establish regulatory authority over subject matters that are outside the county’s authority, usurp the regulatory jurisdiction of state agencies and constitutional officers, and conflict with state law. Key comments in Mr. Oertel’s letter are summarized below:

A. Impacts to Agricultural Operations

1. Agricultural practices – Proposed Sections 1.10 and 2.4 (definition 43) include “clearing of native vegetation” as part of the definition of development, which conflicts with the definition of development contained in Section 163.3164(14), Florida Statutes. Also, Policy 2.1A.2 protects residential development to the exclusion of agricultural activities, which conflicts with the Florida Right to Farm Act under Section 823.14, Florida Statutes.

2. Removal of agricultural ad valorem exemption – Proposed Objective 2.4D and Policies 2.4D.1-3 and 4.1D.6.a.7 seek to reclassify agricultural lands as non-agricultural based on the approval of a proposed urban development, which conflicts with Section 193.461, Florida Statutes.

3. Barriers to plan amendments for non-residential uses – Proposed Section 1.11.D(6)(c) requires a super-majority vote for the passage of plan amendments that allow urbanization outside the urban service district. This section places more burdensome restrictions on agricultural lands than other non-agricultural lands and is in conflict with Section 163.3162(4), Florida Statutes. Also, proposed Section 1.11.D(6)(d)-(e) imposes the super-majority vote requirement for the passage of any plan amendment that would increase negative impacts to the St. Lucie Estuary or Loxahatchee River. These super-majority requirements adversely affect agricultural operations and other land uses by providing inequitable barriers and denying equal protection of similarly situated properties. In addition, the comprehensive plan amendment requirements in Sections 1.11.C and 1.11.D(1) conflicts with Part II of Chapter 163, Florida Statutes, which controls the comprehensive plan amendment process.
B. Environmental regulations

1. **Wetland regulations** – Policy 2.2A.1 provides a definition of a wetland that is inconsistent with the requirements of Section 373.421, Florida Statutes.

2. **Water withdrawals** – Proposed Section 1.5.D protects the water supply by protecting the aquifer from excess water withdrawals. In addition, Policies 2.2D.3 and 2.2E.1 seek to regulate water withdrawals so as to not diminish the water supply of the Loxahatchee River, wetlands, and the aquifer. These proposals to regulate water withdrawals and minimum flows and levels of surface and ground water are in conflict with Chapter 373, Florida Statutes.

3. **Runoff standards** – Proposed Policy 2.2C.6. requires development approvals to assure that to the maximum extent practical, water quality and the rate, timing and volume of runoff will recreate natural conditions for the benefit of wetlands, the estuary, and other receiving waters. This language is in violation of Section 163.3177, Florida Statutes, because it is vague in temporal aspects; it provides no practicable or measurable standards that developers and agricultural operations will be able to meet; and there is no apparent benefit to be gained by requiring run off to mimic what existed at some unknown and undefined historic era.

4. **Coastal construction** – Proposed Policies 2.2.C.9 and 2.2.C.10 include a 75-foot shoreline protection zone and prohibitions on shoreline hardening. These standards deviate from the coastal construction requirements provided in Chapter 161, Florida Statutes. Also, the county did not provide studies, analysis, or any other data to support its coastal protections, which is inconsistent with Section 163.3178, Florida Statutes.

C. **Residential methodology and concurrency issues** – Proposed Sections 1.7 and 4.2(8) and Policies 4.1D.3 and 4.1D.6 provide for residential growth to be based on population projections using a methodology that is not consistent with Sections 163.3177(1)(f)3. and 163.3177(6)(a)4., Florida Statutes; Proposed Policy 2.4C.3 would limit commercial and industrial uses and be too restrictive.

D. **Lack of data and analysis** – Martin County did not provide data and analysis in support of the proposed text changes in the Chapters 1, 2, and 4, as required by Section 163.3177(1)(f), Florida Statutes.

E. **Plan inconsistencies** – The proposed text changes in the Chapters 1, 2, and 4 will render the comprehensive plan to be internally inconsistent with other elements of the plan, which is not in compliance with Section 163.3177(2), Florida Statutes.

F. **Plan not in compliance with Chapter 163, Florida Statutes** – Section 163.3184, Florida Statutes, requires comprehensive plan amendments to be in compliance with Part II of Chapter 163, Florida Statutes. However, the proposed text changes in the Chapters 1, 2, and 4 are not in compliance with Section 163.3184, Florida Statutes, regarding: inclusion of extensive and detailed regulations; lack of predictable standards for the use and development of land; and lack of meaningful guidelines for more detailed land development regulations. Also, the development of proposed text changes in the Chapters 1, 2, and 4 was not consistent with Section 163.3181, Florida Statutes, because the public was not able to participate in the planning process to the fullest extent possible.
Conclusion

Mr. Weberman and Mr. Oertel raise a number of important concerns related to the proposed text amendments in Chapters 1, 2, and 4 and their consistency with the Florida Statutes. The Florida Department of Economic Opportunity should address these issues in the state review. However, regarding regional issues, no adverse effects on significant regional resources and facilities have been identified. The proposed amendments are consistent with the SRPP.

The cumulative effects of the text amendments in Chapters 1, 2 and 4 have regional implications, in that these amendments will restrict the opportunities for development outside the urban service districts. Furthermore, the proposed text amendments strengthen protection of natural resources and regional water bodies, including the Loxahatchee River, Indian River Lagoon, and St. Lucie River and Estuary. The proposed amendments further the following goals, strategies and policies in the SRPP:

- **Regional Goal 2.1**: Preserve natural systems.
- **Strategy 2.1.2**: Discourage sprawling development patterns to ensure compatibility of urban areas, natural preserves and other open spaces.
- **Policy 6.1.2.1**: Support agricultural practices and development that reduce impacts to the function and value of natural systems.
- **Regional Goal 6.3**: Protection of water quality and quantity.
- **Regional Goal 6.4**: Protection of beachfront and environmentally sensitive coastal and marine resources.
- **Regional Goal 6.5**: Protection of estuarine resources.
- **Regional Goal 6.6**: Protection of wetlands and deepwater habitats.
- **Regional Goal 6.7**: Protection of upland natural communities and ecosystems.

The plan is unusual in that Chapter 2, which contains definitions, now includes goals, objectives, and policies. Many of the goals, objectives, and policies added to Chapter 2 duplicate similar goals, objectives, and policies in other elements of the plan. It may be confusing to have essentially the same text appear in two different places in the plan. The county should consider simplifying the plan to make it easier to understand by eliminating duplicate language. Also, the county should consider simplifying some of the policy language by transferring some of the details to the land development regulations.

Policy 4.1D.5 includes the statement: “When residential capacity for an urban service district is reduced to the amount of land necessary to provide for fifteen years of population growth, the county should begin planning for orderly expansion of the urban service district or take other
action to expand residential capacity.” However, the term “orderly expansion” is not defined in Chapter 2 – Definitions, which could result in several interpretations of how expansion should proceed, including sprawling forms or patterns of development which would be inconsistent and discouraged by the SRPP. **Regional Goal 4.1** indicates future development should be part of existing or proposed cities, towns, or villages. Council recommends that Martin County adopt a definition for orderly expansion that is consistent with this goal.

Several Community Redevelopment Areas (CRAs) have been designated in Martin County, including some which contain historic waterfront neighborhoods and commercial districts. The comprehensive plan contains several good policies and objectives encouraging redevelopment of these areas. One impediment to the redevelopment of waterfront areas within a CRA may be Policy 2.2C.9, which requires setbacks from the water or shoreline protection zones (SPZs) and restrictions with some limited exceptions. The county may want to consider additional exceptions to the SPZs within the CRAs where it could be demonstrated the exception would not increase negative impacts to the St. Lucie River, St. Lucie Estuary, and Indian River Lagoon by increasing runoff volume or peak inflows, increasing nutrients, or adding toxic pollutants, consistent with proposed Section 1.11.D.(6)(d1) in Chapter 1.

**Recommendation**

Council should approve this report and authorize its transmittal to Martin County and the Florida Department of Economic Opportunity.

**Attachments**
### List of Exhibits

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Exhibit 3
Gateway Campus Existing Future Land Use Map
Exhibit 4
Gateway Campus Proposed Future Land Use Map

Martin County
Figure 6, Proposed Future Land Use, CPA 13-1, Gateway Campus II

Legend
- gateway_polygon
- Rural Density -up to 0.5 UPA
- Commercial General
- Commercial Limited
- Estate Density -up to 1 UPA
- Commercial / Office / Residential
- Estate Density - up to 2 UPA
- Commercial Waterfront
- Low Density -up to 5 UPA
- Recreational
- Medium Density -up to 8 UPA
- Public Conservation Area
- High Density -up to 10 UPA
- General Institutional
- Mobile Home Density -up to 8 UPA
- Industrial
- Agricultural
- Agricultural Ranchette
- Major Power Generation Facility
- No Data (May Include Incorporated Area)
- WATER

Created by: C.Dulin
Plot Date: February 8, 2013
Tgmstdiv_comp_plan/cpasicpa13-1
Exhibit 5
Mulberry Tree Foundation Aerial Map
Exhibit 6
Mulberry Tree Foundation
Existing Future Land Use Map
Exhibit 7
Mulberry Tree Foundation
Proposed Future Land Use Map
Exhibit 8
Beau Rivage Aerial Map
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Beau Rivage Existing Future Land Use Map
Exhibit 10
Beau Rivage Proposed Future Land Use Map
April 18, 2013

Florida Department of Economic Opportunity  
Caldwell Building  
107 East Madison Street - MSC #160  
Tallahassee, FL 32399

Attn: Mr. Ray Eubanks, Plan Processing Administrator

Ref: 2013 Martin County BCC Comprehensive Plan Amendments  
Formal Objection to Text Amendments  
Specifically Sections 1.11D(6) - Super-Majority Votes  
Specifically Section 2.4A.4 - Super Majority Vote

I’m a 25-Year resident, former Martin County Commissioner, and a property owner/taxpayer in Martin County Florida. I would like to formally “Object” to the Text Amendments relating to the imposition of Super-Majority Votes on numerous Martin County planning and economic development issues.

I have commented publicly before the Martin County Commission on the Text Amendments on at least six (6) separate occasions prior to the April 16, 2013 Transmittal Hearing. I also participated in the April 16, 2013 Transmittal Hearing.

My objections are based on two (2) specific criteria of Florida Law as follows:

First, Super-Majority Votes are so unique they are specifically identified by Statute (for example – FS 336.021 the 9th Cent Gas Tax, or FS 212.03066 Special Taxing Districts). Article VIII, Section 1 of the Florida Constitution allows Non-Charter Counties the power of self-government only as provided by general or special law. The Florida Legislature has not specifically identified Super-Majority Votes for Non-Charter County Comp Plan Amendments to be a permissible local option. And Martin County cannot choose to invoke Super-Majority Votes into its Comp Plan because they are locally popular.

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Florida Constitution
Article VIII  Local Government
Section 1.  Counties

(f) NON-CHARTER GOVERNMENT. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

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Second, FS 163.3161(10) prohibits Comp Plan Amendments that are unduly restrictive of property rights. Clearly, requiring Super-Majority Votes for Comp Plan Amendments, no matter how locally popular, are unduly restrictive. Martin County has stated the clear purpose for these Super-Majority Votes is to make changes virtually unattainable. This defies Florida Law.

163.3161  Short title; intent and purpose.—

(1) This part shall be known and may be cited as the “Community Planning Act.”

(10) It is the intent of the Legislature that all governmental entities in this state recognize and respect judicially acknowledged or constitutionally protected private property rights. It is the intent of the Legislature that all rules, ordinances, regulations, comprehensive plans and amendments thereto, and programs adopted under the authority of this act must be developed, promulgated, implemented, and applied with sensitivity for private property rights and not be unduly restrictive, and property owners must be free from actions by others which would harm their property or which would constitute an inordinate burden on property rights as those terms are defined in s. 70.001(3)(e) and (f). Full and just compensation or other appropriate relief must be provided to any property owner for a governmental action that is determined to be an invalid exercise of the police power which constitutes a taking, as provided by law. Any such relief must ultimately be determined in a judicial action.

Lee Weberman
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In Summary, relating to proposed Policy Sections 1.11D(6), and Section 2.4A.4.

1. Super-Majority Votes are so unique that the Florida Legislature specifically identifies where permissible. Non-Charter Counties cannot include Super-Majority Votes into their Comp Plan Amendment Requirements because they are not specifically identified by the Legislature as a Local Voting Option.

2. Second, FS 163.3161(10) prohibits Comp Plan Amendments that are unduly restrictive of property rights. Requiring Super-Majority Votes for Comp Plan Amendments, no matter how locally popular, are unduly restrictive. Martin County has stated the clear purpose for these Super-Majority Votes is to make changes virtually unattainable. This defies Florida Law.

3. Proposed Super-Majority Policy Section 1.11D(6)(paragraphs d, e, f, g, h, and i) are unpredictable, vague, and subject to interpretation. This also defies Florida Law relating to Comprehensive Planning.

Imagine the statewide chaos and mass-confusion if Non-Charter Counties are allowed to implement Super-Majority Votes, based on local politics, independent of the Florida Legislature. I believe Martin County’s actions on this issue to be invalid, and would support an Attorney General’s Opinion on this matter, if there’s no prior precedent to rely on.

Sincerely,

Lee Weberman

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Re: Martin County proposed plan amendments, CPA 13-5  
Adverse impacts to important state resources and facilities

Dear Sirs:

On April 16, 2013, the Martin County Board of County Commissioners voted to transmit its proposed text amendments to Chapters 1, 2, and 4 of the Martin County Comprehensive Plan.

Based upon our analysis, the proposed amendments are sweeping and broad, and will adversely impact several key important state resources and the property rights of the citizens. First and foremost, the proposed amendments cause substantial uncertainty, greatly inhibit, and, in some cases, prohibit agricultural operations, commercial development, and industrial development. These amendments set a bad precedent. Should other local governments adopt
similar amendments, it could be a disaster for Florida’s economy. The cumulative impacts of these regulations would be extraordinarily detrimental to the agricultural industry, property rights in general, and tourism throughout the State of Florida. Further, many of the proposed plan amendments seek to establish regulatory authority over subject matters that are outside the county’s authority, usurp the regulatory jurisdiction of state agencies and constitutional officers, and conflict with state law.

Beginning on the following page, we have identified these adverse impacts that we believe warrant your immediate attention and review. We respectfully request that your agency issue comments to the Martin County Board of County Commissioners and the Department of Economic Opportunity pursuant to Section 163.3184(3)(b), Florida Statutes.

Thank you for your consideration, and please contact me if you wish to discuss any of these matters in more detail.

Sincerely,

[Signature]

Kenneth G. Oertel
Impacts to Agricultural operations

1. Agriculture practices

Agriculture is an important state resource, as the Florida Legislature has expressly recognized agricultural operations as important state resources. In particular, Sections 163.3162\(^1\) and 823.14\(^2\), Florida Statutes, both provide, in part, that:

...agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, and improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. ...

To further this important state resource, Sections 163.3162(3) and 823.14(6) prohibit local counties from restricting, regulating or otherwise limiting agricultural activities conducted pursuant to best management practices. In contravention of these legislative mandates, the proposed revisions to the Martin County Comprehensive Plan adversely impact agricultural activities.

Proposed Sections 1.10 and 2.4(43) modify the definition of “development” as having “the broadest definition of the term authorized by Florida law including the carrying out of any building activity or mining operation, clearing of native vegetation, the making of any material change in the redevelopment or modification of an existing use or appearance of any structure or land which creates additional impacts, and the dividing of land into three or more lots, tracts or parcels (including planned unit developments).” Included in the definition of “development” is the “clearing of native vegetation,” which broadly encompasses routine agricultural activities protected by Sections 163.3162 and 823.14, Florida Statutes. The definition is vague, overbroad, and conflicts with state law.

Chapter 163, Florida Statutes, governs the adoption of comprehensive plans, and Section 163.3164(14) incorporates by reference the definition of “development” contained in Section 380.04, Florida Statutes. Contrary to the definition provided in Section 380.04, Martin County has added the activity of “clearing of native vegetation” to the definition of “development.” This is not in the definition of Section 380.04, is clearly in conflict with state law, and is beyond Martin County’s powers. No local government may amend state law. Secondly, the idea that “clearing of native vegetation” could be considered development is truly absurd. If, for example, a farmer wishes to cultivate fallow land, it may be necessary to mow and/or plow native vegetation in order to allow for the planting of crops. Under the amended language to Section 1.10 of the Martin County Comprehensive Plan, normal farming operations such as those

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1 Agricultural Lands and Practices
2 Florida Right to Farm Act
described above, could be considered “development.” This amendment is thus in conflict with Florida statutes.

In addition, proposed Policy 2.1A.2 seeks to protect “existing and future residential areas ... from encroachment by ... non-residential uses. ... All plan amendments and development approvals shall protect residential neighborhoods from the negative impacts of more intense development.” Such a plan amendment that protects residential development to the exclusion of agricultural activities will likely lead to violations of the Florida Right to Farm Act under Section 823.14, Florida Statutes.

2. Removal of agricultural ad valorem exemption

The comprehensive plan amendments adversely affect agricultural operations by conditioning certain development approvals and plan amendments on the reclassification of agricultural lands. Proposed Objective 2.4D and Policies 2.4D.1-3 and 4.1D.6.a.7 seek to reclassify agricultural lands as non-agricultural based on the approval of a proposed urban development. However, such re-classification of agricultural land is impliedly preempted by Section 193.461, Florida Statutes, which sets forth the standards for the classification of agricultural lands for tax assessments. In particular, Section 193.461 mandates that the county property appraiser classify land as agricultural when those lands are used for a “bona fide agricultural purpose.” The proposed amendments violate the unambiguous statutory requirements by subjecting agricultural landowners to removal of the agricultural classification of lands that are still being used for bona fide agricultural purposes. Section 193.461, Florida Statutes, does not grant the Martin County Board of County Commissioners the authority to reclassify agricultural lands in such a manner and, as such, Proposed Objective 2.4D and Policies 2.4D.1-3 and 4.1D.6.a.7 clearly violate state law and adversely impact agricultural operations.

In addition, the proposed comprehensive plan amendments contravene Section 163.3177(7)(a), Florida Statutes, which provides that the state has “compelling interest” in preserving agriculture and rural agriculture communities by encouraging the “diversification of existing rural agricultural industrial centers” and the “creation and expansion of industries that use agricultural products.”

3. Barriers to plan amendments for non-residential uses

The proposed amendments also adversely affect agricultural operations by inequitably requiring super majorities for comprehensive plan amendments in rural areas. In particular, Proposed Section 1.11.D(6)(c) requires a super-majority for the passage of any plan amendment that allows urbanization outside the urban services district, clustering in agricultural lands outside the urban services district, and residential densities of more than one unit per 20 acres or lot sizes less than 20 acres outside the urban services district. Such policies arbitrarily place more burdensome restrictions on agricultural lands than other, non-agricultural lands. Further, such a policy contravenes Section 163.3162(4), Florida Statutes, which specifically encourages plan amendments for agriculture enclaves and provides a statutory presumption that such
developments are not urban sprawl where the land uses and intensities are consistent with the surrounding land uses.

Similarly, proposed Section 1.11.D(6)(d)-(e) imposes the super-majority requirement for the passage of any plan amendment that would “increase negative impacts” to the St. Lucie Estuary or the Loxahatchee River; decreasing dry season flows to the Loxahatchee River; adversely affecting the water supply of an existing home, business, or natural systems users; and lessen the requirements to protect wetlands or expand wetlands exceptions in Policy 2.2A.2. These super-majority requirements adversely affect agricultural operations and other land uses by providing irrational and inequitable barriers and denying equal protection of similarly situated properties, are arbitrary, and lack a rational basis. The only possible purpose of a super majority requirement is to tie the hands of future county commissioners from exercising their judgment and discretion in deciding what is an appropriate subject for amendment to this Plan. This is nothing more than an effort to restrict the exercise of property rights, diminish property values, prevent future development, and to make it more difficult for future county commissions to exercise independent judgment on this subject. A county commission cannot legislate away its duties and responsibilities to govern. Further, as discussed in the Water Withdrawals section, below, Martin County lacks the authority to regulate the minimum flows and levels of surface and ground waters and water withdrawals. Additionally, there is no data or analysis to support the “super-majority” conditions.

Section 1.11.C allows amendments only when three criteria have been demonstrated by the applicant to exist. This proposed amendment would tie the hands of future county commissioners exercising their judgment as to when it is appropriate to amend the comprehensive plan. Part II of Chapter 163, Florida Statutes, contains no such criteria. The amendment of comprehensive plans is controlled exclusively by Chapter 163, Florida Statutes. This section of the Preamble is a de facto amendment of Chapter 163, Florida Statutes. Martin County, by ordinance, may not amend a statute, yet this is the net effect of Section 1.11.C.

Finally Section 1.11.D(1) provides that “no amendment shall be approved for transmittal that is not consistent with all goals, objectives, and policies of this plan with this chapter.” There is no requirement in Part II of Chapter 163, Florida Statutes, that an amendment to a comprehensive plan must be consistent with all goals, objectives, and policies of the plan. A plan amendment must address different issues in a non-conflicting manner. The only apparent or possible purpose of this statement is to restrict the ability of the County Commission to amend its own plan. Thus, Section 1.11.D conflicts with Part II of Chapter 163, Florida Statutes.
Environmental regulations

1. Wetlands regulations

Wetlands are an important state resource, as they provide essential water quality functions and are habitats for many species of wildlife. In proposed amendment Chapter 2, Policy 2.2.A.-2.2A.5, Martin County attempts to define “wetlands” and seeks to issue notices of violation where delineated and non-delineated wetlands have been altered. Policy 2.2A.1 defines “wetlands” as “areas that are inundated or saturated by surface water or groundwater at a frequency or a duration sufficient to support, and, under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soils.” However, Martin County’s effort to define and delineate “wetlands” is expressly preempted by Section 373.421, Florida Statutes, which provides, in relevant part:

Delineation methods; formal determinations.—

(1) The Environmental Regulation Commission shall adopt a unified statewide methodology for the delineation of the extent of wetlands as defined in s. 373.019(27). ... This methodology shall not become effective until ratified by the Legislature. Subsequent to legislative ratification, the wetland definition in s. 373.019(27) and the adopted wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019(27) and this section.

(emphasis added) Thus, the power to define and delineate “wetlands” is a power specifically within the province of the state, not the county.

In addition, the “wetlands” definition in Policy 2.2A.5 applies to man-made wetlands and directly conflicts with Policy 9.1G.1. The new policy of providing wetlands protection to man-made wetlands will adversely impact agricultural operations, which often rely on artificially created lakes and cow ponds.

Further Policy 2.2A.5 seeks to issue notices of violation and require landowners to “restore” any lands where there is merely “evidence” that drainage, clearing, or other “development” has occurred after 1982 and in violation of the comprehensive plan, regardless of a wetland delineation. This language is broad and vague, as it seeks to “restore” lands to an undefined state and impose sanctions on land where there is merely “evidence” of alteration. Many alterations of

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3 The wetland methodology was ratified pursuant to Section 373.4211, Florida Statutes, and, as such, Martin County is preempted from defining and delineating “wetlands.”
land are exempt from regulation by statute. See Section 373.406, Florida Statutes. Martin County cannot require restoration of properties altered under the authority of a state statute that allowed such work and exempted it from regulation. Martin County cannot, by ordinance, void a state statute. Such policies would adversely impact agricultural operations, which would be issued notices of violation and be required to “restore” any lands where there had been activities that were sanctioned by state law.

In addition, proposed Objective 2.2C provides that the county “shall ensure that all development orders … support, further, and fight for a safe, healthy and ecologically balanced St. Lucie River Estuary and Indian River Lagoon.” The language “support, further, and fight for” is vague, and given the broad definition of “development,” such a policy would effectively prohibit any agricultural operation, including land clearing for cultivation, that does not directly enhance the estuary and river. This directly conflicts with the Right to Farm Act. Further, there is no data or analysis to show that the outright denial based on preliminary South Florida Water Management District mapping is reasonable, appropriate, or ultimately justified from a planning perspective.

2. Water withdrawals

Ground and surface water withdrawals are also an important state resource, as the withdrawals can be used for drinking water, residential use, agricultural irrigation, golf course irrigation, commercial use, and industrial use. In proposed amendment Section 1.5.D, Martin County proposes to protect the water supply by protecting the aquifer from “excess” water withdrawals. In addition, Policies 2.2D.3 and 2.2E.1 seek to regulate water withdrawals so as not to do not diminish the water supply of the Loxahatchee River, wetlands, and the aquifer. Further, Policy 2.2A.4 requires water table “restoration.”

However, the state’s water supply, the quantity of water allowed to withdraw, and the minimum flows and levels of surface and ground waters are under the exclusive purview of the state and water management districts. See Sections 373.042, 373.223, and 373.224, Florida Statutes. The regulation of these activities are expressly preempted to the state by Section 373.217, Florida Statutes, which provides:

373.217 Superseded laws and regulations.—

(1) It is the intent of the Legislature to provide a means whereby reasonable programs for the issuance of permits authorizing the consumptive use of particular quantities of water may be authorized by the Department of Environmental Protection.

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972 … shall provide the exclusive authority for requiring permits for the consumptive use of water ….
(3) If any provision of Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, is in conflict with any other provision ... Part II shall govern and control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purpose of regulating the consumptive use of water. ... 

(4) Other than as provided in subsection (3) of this section, Part II of the Florida Water Resources Act of 1972, as amended, preempts the regulation of the consumptive use of water as defined in this act.

(emphasis added) Thus, Martin County’s proposal to regulate water withdrawals and the minimum flows and levels of surface and ground water is expressly preempted by Chapter 373, Florida Statutes. Thus, any attempt by Martin County to regulate water use is beyond its jurisdiction and in conflict with state law.

3. Run off standards

Proposed Policy 2.2C.6. requires development approvals to assure that “to the maximum extent practical, water quality and the rate, timing and volume of runoff will recreate natural conditions for the benefit of wetlands, the estuary and other receiving waters.” Section 2.4(108) defines “natural conditions” as “[t]hose conditions in place before any man-made impacts.” Thus, development approvals will be conditioned upon recreating “conditions in place before any man-made impacts.” There is no indication that such a regulation is based on any data or analysis. Further, the language vague in all temporal aspects (must developers recreate the conditions that existed during the Spanish exploration of La Florida?), and the proposed amendment provides no practicable or measurable standard that developers and agricultural operations will be able to meet. There is no apparent purpose or benefit to be gained by requiring run off to mimic what existed at some unknown or undefined historic era. This is a clear violation of Section 163.3177, Florida Statutes.

4. Coastal construction

The Florida Legislature expressly identified the coastal areas of the State of Florida as a resource of significant or compelling interest. To further this interest, Section 161.53(5), Florida Statutes, establishes that coastal areas “shall be managed through the imposition of strict construction standards in order to minimize damage to the natural environment.”

Chapter 161, Florida Statutes, and Chapter 62B-33, Fla. Admin. Code, set forth a complex regulatory system regarding shoreline and coastal construction, and Section 161.041, Florida Statutes, vests in the Department of Environmental Protection the authority for overseeing and permitting the excavation or erection of structures at coastal locations. However, in Policies 2.2C.9 and 2.2C.10, Martin County proposes a 75-foot shoreline protection zone and prohibitions on shoreline hardening. These standards deviate from those coastal construction requirements provided under Chapters 161, Florida Statutes.
Further, Section 163.3178, Florida Statutes, governs the coastal management element of comprehensive plans and allows the comprehensive plan to restrict development activities “where such activities would damage or destroy coastal resources.” Section 163.3178 requires the coastal management element to be “based on studies, surveys, and data, an analysis of environmental, socioeconomic and fiscal impacts of development, and an analysis of the effects of existing drainage systems. The county provided no studies, analysis, or any other data to support its coastal protections.

**Residential methodology and concurrency issues**

Proposed Sections 1.7 and 4.2(8) and Policies 4.1D.3 and 4.1D.6 provide for residential growth based on projections of the permanent population of Martin County, and limits residential development to 125% of the housing need. Such a policy directly contravenes Section 163.3177(1)(f), Florida Statutes, which requires the comprehensive plan to be “based upon permanent and seasonal population estimates and projections” and Section 163.3177(6)(a), Florida Statutes, which requires future land uses to “allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population.” Further, projecting growth needs based solely on the permanent population severely underestimates growth demands by discounting seasonal residents. Moreover, there is no data or analysis to support the residential formula allocation.

In addition, Policy 2.4C.3 would limit commercial and industrial uses to those that accommodate or support approved residential uses (permanent residents of Martin County). Such a policy would limit future opportunities to attract large, regional businesses, which would serve transient populations or populations outside Martin County. Finally, it would be nearly impossible for individuals seeking non-residential development permits to prove that the proposed land use would serve and employ only the residents of Martin County. As such, these requirements are misguided, irrational, and are clearly not “in compliance.”

**Lack of Data and Analysis**

Section 163.3177(1)(f), Florida Statutes, requires that plan amendments be “based upon relevant and appropriate data and an analysis by the local government.” Martin County did not submit any data or analysis in support of any of its proposed amendments. Such a lack of data makes it nearly impossible for reviewing agencies to adequately review the plan amendments to determine whether there may be adverse impacts to important state resources or facilities and restricts the agencies’ ability to provide sufficient and substantive comments. Martin County failed to provide data or analysis regarding:

1. How the substantive changes to Chapters 1 and 2 affect other chapters in comprehensive plan, particularly Chapter 6 (Housing), Chapter 8 (Coastal Management), Chapter 9 (Conservation and Open Space), Chapter 13 (Drainage and Natural Groundwater Aquifer Recharge), and Chapter 15 (Economic).
2. How the reclassification of agricultural lands in Objective 2.4D and Policies 2.4D.1-3 and 4.1D.6.a.7 will impact agricultural operations.

3. How the definition of “development” in Section 2.4(43), which includes the “clearing of native vegetation,” affects any land uses in the county, especially agricultural operations and how that definition is justified.

4. How the residential methodology and the limits on commercial and industrial uses in Policy 2.4C.3 will impact future opportunities to attract businesses, such as research or manufacturing facilities, which serve populations that may be outside Martin County, or reasonability of such provision.

5. How the definition of “natural conditions” in Section 2.4(108) will impact St. Lucie Canal, major road improvements, or tens of thousands of acres of agriculture.

6. The general prohibition on “negative impacts” in Objective 2.2C, and whether such a prohibition based on preliminary SFWMD mapping is reasonable, appropriate, or ultimately justified. In the original staff analysis, staff stated that “[a]ll site planning and legal consequences resulting from this text cannot be identified at this time.” In addition, staff noted that a “resulting consequence” may be that landowners have to petition the county for relief under Section 1.3. (original staff analysis p. 6) See Attachment A.

7. How the restoration provision of Policy 2.2A.5 will affect current and previous land alterations, including vegetative clearing.

8. Coastal management or how coastal development activities “would damage or destroy coastal resources” under Section 163.3178, Florida Statutes.

9. How the county’s protection of water resources in Section 1.5.D and Policy 2.2D.3 conflicts with state law. In the original staff analysis, the staff stated that the “text is new and it is unclear how it may be complementary or conflicting with statutory authority of the” WMD. (original staff analysis p. 2)

10. How the new definition of “wetlands” in Policy 2.2.A.1 affects the wetland regulations in Chapter 9, potentially impacts on agricultural rights under the Right to Farm Act, or conflicts with state law.

11. The consequences of the prohibition in Policy 2.2.D2 on the increasing intensity of land use within the watershed of the Loxahatchee River. (original staff analysis p.7)

12. The basis for the 15-unit maximum for residential use in Section 1.11.D(6) and Policy 2.1.A.3.
13. The 125% limit on residential development approvals in Policy 2.4C.1.


15. The density allocations in Section 4.1.F. In fact, in the original staff analysis of the comprehensive plan, staff stated that “[a]ll site planning and legal consequences...cannot be identified. It may be appropriate to consider these changes at another date in a separate amendment.” (original staff analysis p. 11)

Plan Inconsistencies

Under Section 163.3177(2), Florida Statutes, a comprehensive plan must be internally consistent. Currently, Section 1.6 of the Martin County Comprehensive Plan provides that “[a]ll elements of the CGMP shall be consistent.” Further, Section 163.3194, Florida Statutes, requires that once the comprehensive plan is adopted, “all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.” (emphasis added) The landmark case Pinecrest Lakes Inc. v. Shidel, 795 So.2d 191 (Fla. 4th DCA 2001), instructs that any development inconsistent with the comprehensive plan is subject to injunctive relief, including the razing of a three-story apartment building.

Here, the proposed amendments will render the comprehensive plan internally inconsistent, despite the county’s stated policy that the more restrictive standard should apply during a conflict. As such, all citizens will be placed in a continual state of uncertainty due to a lack of guidance as to what activities are permitted or prohibited by the comprehensive plan.

The following are several inconsistencies that will result from the proposed amendments:

1. Section 1.7 of the Preamble states that future land use, housing and capital improvements are to be directly based on population data. Section 1.7 provides that the “appropriate resident and seasonal population figures are critical to the local government in assessing future needs for housing units, the adequacy of housing supply, and the need for services and facilities.” Further, Section 1.7B provides that “estimates of future housing needs are based on expected increases in permanent population.” These provisions directly conflict.

2. Sections 1.4 and 1.5 prohibit any future amendment from being inconsistent with any goal, objective or policy of the plan; however, Section 1.11(4) allows future proposed amendments to supersede or repeal a more restrictive provision if expressly identified. Given the comprehensive plan’s policy that the more restrictive provision applies, Sections 1.4 and 1.5 would govern, and any amendment that seeks to modify any goal, objective or policy of the plan would be prohibited.
3. The new coastal construction regulations in Policy 2.2C.9 modify and, in some cases, directly conflict with the coastal construction regulations set forth in Chapter 8.

4. The new wetlands definition and regulations in Policy 2.2A modify and, in some cases, directly conflict with the wetlands provisions in Martin County Policy 9.1G.2.

**Plan not in compliance with Chapter 163, F.S.**

Section 163.3184, Florida Statutes, requires comprehensive plan amendments to be in compliance with Part II of Chapter 163, Florida Statutes. The proposed comprehensive plan amendments are not in compliance with Chapter 163, including:

1. Section 163.3177(1), Florida Statutes, requires the goals, objectives, and policies to describe how the land development regulations should be initiated and not include implementing regulations. However, the proposed amendments to Chapter 1 (Preamble) and Chapter 2 (Definitions) contain extensive and detailed regulations.

2. Section 163.3177(1), Florida Statutes, requires that the comprehensive plan establish meaningful and predictable standards for the use and development of land. To the contrary, the proposed amendments do not establish predictable standards for the use and development of land.

As addressed in more detail above, the comprehensive plan vests the county with unbridled discretion as to how to interpret the regulations. As a result, landowners are left guessing as to what activities are regulated and what standards apply if such activities are regulated. Landowners are left guessing as to what constitutes “development,” what activities will require restoration of lands; what types of land alterations would require restoration; or any standards regarding the recreation of “natural conditions.”

The internal inconsistencies of the comprehensive plan create confusion as to what uses are permitted and under what circumstances and may require future plan amendments or petitions for relief by affected property owners. Section 1.4 of the Preamble attempts to address issues regarding the obvious inconsistencies and conflicts with the existing plan and these amendments. The operative language provides that “where one or more policies diverge, the stricter requirement shall apply.” However, there is no definition or criteria as to how it is determined which is a “stricter requirement.” This is left to the whim or caprice of whoever the reviewing entity is. Certainly, that criterion is not quantifiable or measurable.

As addressed in more detail above, Section 1.7 bases growth on “appropriate resident and seasonal population figures”; however, Section 1.7B provides that “estimates of future housing needs are based on expected increases in permanent population.” These provisions directly conflict, as described above, and the question of which
provision is the “stricter requirement” is impossible to apply. Calculations of seasonal and permanent population as opposed to just permanent population are different and result in different predictions; however, one is not stricter than the other. The use of the term “strict” is meaningless in this context. It certainly lacks definition or measurability.

Rather than propose predictable standards for the use of land, the county has proposed conflicting, vague, broad, and confusing plan amendments.

3. Section 163.3177(1), Florida Statutes, requires that the comprehensive plan provide meaningful guidelines for more detailed land development and regulations. However, the proposed comprehensive plan amendments do not establish meaningful guidelines for more detailed land development regulations.

As addressed in more detail above, the comprehensive plan is broad and vague, and offers no concrete guidelines as to what activities constitute “development”; what activities will require restoration of lands and water resources; the standards that must be met in order to meet these restoration standards; or any guidelines or standards as to how the recreation of “natural conditions” could be accomplished. Finally, the internal inconsistencies of the comprehensive plan will result in confusion regarding the implementation of land use regulations.

4. Section 163.3181, Florida Statutes, requires “that the public participate in the comprehensive planning process to the fullest extent possible.” However, to date, Martin County’s undertaking of the plan amendment process has disregarded this statutory mandate, as follows:

   a. The county delegated the authority to draft these proposed amendments to Maggy Hurchalla. Such a delegation may violate Section 163.3174(1) and (4), Florida Statutes, which designates the local planning agency as the body in charge of preparing the comprehensive plan amendments and making recommendations to the county.

   b. The proposed revisions front load land use regulations in Chapters 1 and 2 rather than the substantive chapters that deal with those particular regulations. As a result, the revisions render the comprehensive plan internally inconsistent, and the public has not been adequately informed as to how the substantive provisions of the comprehensive plan are actually changing, thus concealing from the public how the comprehensive plan will actually affect their property rights.

   The following policies substantively modify other chapters in the comprehensive plan without indicating how the policies affect those other chapters:
Martin County Comprehensive Plan
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i. The new wetlands definition and regulations in Policy 2.2A modify and, in some cases, directly conflict with the wetlands provisions in Martin County Policy 9.1G.2.

ii. The new coastal construction regulations in Section 2.2C.9 modify and, in some cases, directly conflict with the coastal construction regulations set forth in Chapter 8.

iii. Section 1.7 specifies population projections and methodology, which should be contained in Chapter 4 (Future Land Use Element).
REQUEST NUMBER: CPA 13-5 Chapters 1, 2 and 4, Comprehensive Growth Management Plan.

APPLICANT: Martin County Board of County Commissioners
Represented By: Nicki VanVoorhis

SITE LOCATION: Not Applicable.

APPLICANT REQUEST: A text amendments to Chapters 1, 2 and 4 and any other chapters necessary to implement the changes proposed.

STAFF RECOMMENDATION: As a whole, staff recommends approval of the changes. See the matrix in this staff report for more specific detail about specific sections.

Background.
On November 20, 2012 the Board received a presentation from Maggy Hurchalla and set a meeting to consider amendments to the Comprehensive Growth Management Plan, CGMP. On December 11, 2012 the Board initiated a Plan amendment to Chapters 1, 2 and 4 of the Comprehensive Plan. Staff and Mrs. Hurchalla met with the Board on three days to review proposed changes and receive Board direction on the three chapters.
Following the meetings listed above, staff worked with Mrs. Hurchalla on additional changes. Unlike the meetings listed above, March 21, 2013 is the first Public Hearing on the proposed changes.

Analysis of the proposed text.

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Objective Policy or Section</th>
<th>Analysis/Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Chapter 1, Preamble</td>
<td>Restore natural resources. Allow their development only when consistent with all goals, objectives and policies of this Plan. This text sets a new, higher, standard that requires more than protection of the natural resources.</td>
</tr>
<tr>
<td></td>
<td>Section 1.2.B.(4)</td>
<td>The powers of the Board are described. Property rights are protected from a “taking.” However, the Board “may grant relief only when” relief is necessary to prevent a violation of Constitutional property rights. Staff notes this only as a policy change.</td>
</tr>
<tr>
<td></td>
<td>Section 1.3</td>
<td>The following text directs the application of Plan policies more specifically than done previously. “Where a subject is addressed by two or more provisions of the Comprehensive Plan, all provisions apply, and the stricter provision shall prevail to the extent of the conflict. Plan policies addressing the same issue shall be considered consistent when it is possible to apply the requirements of both policies with the stricter requirements governing.” Staff notes this is a policy change that could require future Board determinations on what policy provision will prevail.</td>
</tr>
<tr>
<td></td>
<td>Section 1.5.A.</td>
<td>All amendments and development orders must be consistent with Chapter 1. This has not been a requirement previously.</td>
</tr>
<tr>
<td></td>
<td>Section 1.5.B.</td>
<td>Emphasizes the importance of a high quality school system and the coordination between population growth and school capacity.</td>
</tr>
<tr>
<td></td>
<td>Section 1.5.D.</td>
<td>The section emphasizes the protection of water resources, especially the surficial aquifer. The following text is new and it is unclear how it may be complementary or conflicting with statutory authority of the Water Management District: “The County shall use its land use authority under Chapter 163 F.S. to protect water resources.” This is similar to text proposed in Chapter 2, Policy 2.2.D.3.</td>
</tr>
<tr>
<td></td>
<td>Section 1.7</td>
<td>A dated reference to Chapter 9J-5 is stricken and specific requirements for a Population Technical Report are added to this chapter.</td>
</tr>
<tr>
<td></td>
<td>Section 1.7.C.</td>
<td>Requirements for Residential Capacity calculations are added to the chapter. Vacant single family lots of record prior to 1982 and after</td>
</tr>
<tr>
<td>Section</td>
<td>Text</td>
<td></td>
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<tr>
<td>1.7.C.(5)</td>
<td>Multifamily final site plans will not be counted as part of the residential capacity until Certificates of Occupancy are issued. Within the text there is a reference to “A.1.” This appears to refer to the vacant property unit calculation in Section 1.7.C. (1). Staff does not concur with counting an approved Final Site Plan as “vacant” in the same way land with no site plan is counted.</td>
<td></td>
</tr>
<tr>
<td>1.7.C.(6)</td>
<td>Constructed residential units, certified for occupancy, and considered “excess vacant housing” are proposed for addition to the residential capacity calculation. Residential capacity has not previously included constructed units certified for occupancy. Staff notes this only as a policy change.</td>
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</tr>
<tr>
<td>1.7.E.</td>
<td>Previous projections shall be reviewed for accuracy every five years. Methodology may be changed to improve accuracy. Staff presumes any change to methodology must be done by Plan amendment. These policy changes have the potential for increasing costs.</td>
<td></td>
</tr>
<tr>
<td>1.8</td>
<td>Evaluation and Appraisal Reports on the Comp. Plan must be done every five years beginning in 2016. EAR reports must be submitted to the Board and amendments to the Plan completed in 12 months. This strict requirement may require EAR work and study costs in addition to the EAR schedule required by Florida State Statute. These policy changes have the potential for increasing costs.</td>
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</tr>
<tr>
<td>1.8.A.</td>
<td>Annual report must be presented to the Board providing objective economic data. Annual report showing what budgeted and programmed activities have been implemented and what have not. Annual report on intergovernmental coordination must be presented. Staff notes these policy changes as potentially increasing costs.</td>
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<tr>
<td>1.9</td>
<td>The long standing practice of providing for public comment at Local Planning Agency and Board meetings is memorialized as a requirement.</td>
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<tr>
<td>1.9</td>
<td>Material changes to a Plan amendment application will require new advertising if it has already been advertised. The term material change is described in this section. The new policy memorializes a long standing practice. The term material change is also defined in Chapter 2.</td>
<td></td>
</tr>
<tr>
<td>1.9.A.</td>
<td>The Citizens Planning Bill of Rights requires notification of surrounding property owners within 1,000 feet when a proposed Future Land Use Map amendment is inside the Urban Service Districts. It requires 2,500 feet for amendments outside the Urban Service Districts. A Cooling Off period is established to prevent changes to a Plan amendment seven business days prior to a public hearing. The term “Urban Service Boundary” should be replaced with Urban Service District or Districts.</td>
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</tr>
<tr>
<td>1.10</td>
<td>All development and amendments to the Plan must be consistent with Chapter 1. The term “Development” is defined in Chapter 1 and</td>
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</tr>
<tr>
<td>Section 1.11.A.</td>
<td>Ownership in a property must be disclosed for a related application. The new standard for disclosing ownership requires “names and addresses of each and every person with any legal or equitable interest in the property, including any partners, members, trustees, and stockholders and every person or entity having, more than a 5% interest in the property or proposed development.” The text requires Land Development Regulations be adopted on a date to be determined in 2013 to implement this new requirement. Staff recommends Land Development Regulations be adopted within one year of the proposed amendment becoming effective.</td>
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<tr>
<td>Section 1.11.C.(2)</td>
<td>Staff recommendations must be consistent with the Plan and specifically Chapter 1. Text amendments that affect the allowable use of a specific parcel must be evaluated by staff in the same way a Future Land Use Map amendment is evaluated. The four criteria staff uses to evaluate a FLUM amendment have been revised. Staff must also make a determination of consistency with all Plan goals, objectives and policies. It has been a long standing practice that staff evaluates for consistency with all Plan goals, objectives and policies. One of the three criteria is specific to County initiated amendments intended to correct a public facility deficiency.</td>
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<tr>
<td>Section 1.11.C.(3)</td>
<td>Subsequent public hearings on a proposal by the LPA must be posted on the County web site on the following business day.</td>
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<tr>
<td>Section 1.11.C.(4)</td>
<td>Plan amendment applications not acted upon by the LPA, before April 1, must be resubmitted in the following September. The LPA must make a finding that one of three criteria in Section 1.11.C.(2) are applicable. The LPA recommendation must address questions of consistency raised by the public. The recommendation by the LPA must be posted on County website on the second business day. Staff recommends the required posting of information on the web should be standardized as next business day.</td>
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</tr>
<tr>
<td>Section 1.11.D.(1)</td>
<td>A super-majority of four votes shall be required for transmittal hearings on critical issues listed in 1.11.D.6. A super majority of the LPA is not required. Amendments approved for transmittal must be consistent with the Plan and Chapter 1. Continuation of a Board hearing must be posted on the County web site the next business day and action by the Board must be posted within two business days. Staff recommends the required posting of information on the web should be standardized as next business day.</td>
<td></td>
</tr>
<tr>
<td>Section 1.11.D.(2)</td>
<td>A super-majority of four votes shall be required for adoption hearings on critical issues listed in 1.11.D.6.</td>
<td></td>
</tr>
<tr>
<td>Section 1.11.D.(4)</td>
<td>This new section will require the cumulative effect of multiple amendments (submitted during a given year) to be considered in more detail. See the following proposed excerpt: recommendations for</td>
<td></td>
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</tbody>
</table>
findings of fact on individual amendments shall consider the cumulative impact of that amendment, all other amendments being considered during the application period, and what precedents would be set for the approval of future amendments, if the amendment under consideration is adopted.
Staff has no objection to considering the cumulative effect of amendments however, no one can foretell what future amendments will occur.

At this point in time a Plan amendment is a legislative act and may be used to support another amendment in the future but, it cannot be considered a “precedent” requiring approval of a similar amendment in the future. Arguably, the proposed text would change the standard for review and maybe used (by applicants) to require future amendments that are similar to previous amendments.

Section 1.11.D.(5)  Plan amendment applications cannot be continued to a future year. All consequences resulting from this text cannot be identified at this time.

Section 1.11.D.(6)  The issues requiring a super-majority vote include:
- A change to the four-story height limit.
- More than 15 units to the acre.
- Expansion of the urban boundary or other specified activities outside the urban service district. This text needs to refer to the urban service districts instead of “urban boundary.”
- Increased impacts on the estuary.
- Adverse affect to the water supply.
- Decrease to flood protections.
- Changes to wetland protection requirements.
- Changes to the requirement that development pay its proportionate share.
- Reductions to concurrency requirements.

Section 1.11.F.  Except for amendments initiated by the County, there shall be only one set of Plan amendments each year.

Section 1.12.  Amendments to the timetable of a development application (more than 5 years) require the development to be consistent with the Plan as currently adopted.

Section 1.12.D.  PUD timetable violations must be brought to the Board within 60 days. Breach proceedings must be initiated for a PUD timetable violation of more than one year.

**Chapter 2, Overall Goals and Definitions**

Section 2.2.  Four overall Goals along with supporting Objectives and Policies are proposed for Chapter 2. All chapters of the Plan must be consistent with these overall Goals proposed for Chapter 2.

Goal 2.1.  Martin County shall broaden, enhance and protect the quality of life of Martin County residents. This Goal is supported by proposed Objectives 2.2A thru 2.2E.
<table>
<thead>
<tr>
<th>Policy 2.1A.1.</th>
<th>No land uses or development shall exceed any of the following: four stories, a building height of 40 feet or 15 units to the acre. This proposed text does not represent a change in policy.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 2.1A.3.</td>
<td>The density transition policy, currently found in Objective 4.1F., has been summarized in this section of Chapter 2. Objective 4.1F. has also been re-crafted for consistency with this policy in Chapter 2. While the re-crafted text of Chapter 4 provides additional clarity, all site planning and legal consequences resulting from this text cannot be identified at this time. The granting of relief by the Board as discussed in Section 1.3 may be a resulting consequence. It may be appropriate to consider these changes at another date in a separate amendment. Please see the analysis on Objective 4.1F. in this staff report.</td>
</tr>
<tr>
<td>Policy 2.1A.4.</td>
<td>Additional reporting requirements similar to those listed in Section 1.8. are proposed. Staff shall produce an annual report showing all future land use changes and development that has occurred.</td>
</tr>
<tr>
<td>Objective 2.1B.</td>
<td>Objective quality of life measures. Under this Objective four new policies will require annual reports from the Growth Management and Engineering Departments.</td>
</tr>
<tr>
<td>Objective 2.2A.</td>
<td>Wetland protection requirements in Chapter 9 are restated and summarized in six proposed policies. Future Plan amendments to Chapter 9, Conservation and Open Space may be necessary for internal consistency.</td>
</tr>
<tr>
<td>Objective 2.2B.</td>
<td>Upland habitat protection requirements in Chapter 9 are restated and summarized in three policies. Future Plan amendments to Chapter 9, Conservation and Open Space may be necessary for internal consistency.</td>
</tr>
<tr>
<td>Objective 2.2C.</td>
<td>All official County positions shall fight for the protection of natural resources. This Objective is supported by 10 proposed policies that memorialize support for CERP.</td>
</tr>
<tr>
<td>Policy 2.2C.4</td>
<td>Martin County shall encourage agency rule changes that move more water south within the current infrastructure limitations. This is an example of memorializing support of CERP.</td>
</tr>
<tr>
<td>Policy 2.2C.5</td>
<td>“Changes to the FLUM or the text of the comprehensive plan that would negatively affect implementation of CERP or the Indian River Lagoon South by compromising their success or increasing cost, shall not be allowed unless the applicant clearly demonstrates with supporting evidence, that the denial of such request would result in a violation of its constitutional or statutory property rights.” While staff completely supports this concept, all site planning and legal consequences resulting from this text cannot be identified at this time. The granting of relief by the Board as discussed in Section 1.3 may be a resulting consequence.</td>
</tr>
<tr>
<td>Policy 2.2C.9</td>
<td>This policy restates and summarizes the Shoreline Protection Zone requirements in Chapter 8, Coastal Management. Future Plan amendments to Chapter 8 may be necessary for internal consistency.</td>
</tr>
<tr>
<td>Policy 2.2C.10.</td>
<td>This policy restates and summarizes the shoreline hardening regulations in Chapter 8, Coastal Management. Future Plan amendments to Chapter 8 may be necessary for internal consistency.</td>
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<tr>
<td>Policy 2.2C.10.</td>
<td>Five measures proposed after Policy 2.2C.10. require additional reporting requirements on: CERP; water discharges from site plans; water discharges from canals; and impacts to mangroves, seagrass beds, oyster bars, natural shorelines. One of the five measures requires three different types of water quality data: Development approvals shall show water quality data for present use, post development use and the property in its natural state. These data shall include: total suspended solids, total phosphorous and total nitrogen. Staff notes these only as a policy change.</td>
</tr>
<tr>
<td>Objective 2.2D.</td>
<td>This Objective regarding the Loxahatchee River is supported by three proposed policies.</td>
</tr>
<tr>
<td>Policy 2.2D.2</td>
<td>An amendment to the CGMP (presumably a future land use change) cannot be approved that increases intensity of a land use within the watershed of the Loxahatchee River. The amendment can be approved after a project has restored water quality, quantity, rate and timing to natural conditions for that project’s contribution to the watershed. This policy must be considered along with a Measure listed after Policy 2.2C.10. The Loxahatchee River watershed includes thousands of acres on two sides of the County line. All consequences resulting from this text cannot be identified at this time.</td>
</tr>
<tr>
<td>Policy 2.2D.3.</td>
<td>Similar to the proposed change in Section 1.5.D. this policy cites Chapter 163, F.S. It requires Martin County to assure water withdrawals do not diminish water supply during the dry season for the Loxahatchee River and associated wetlands.</td>
</tr>
<tr>
<td>Objective 2.2E</td>
<td>This Objective concerning freshwater is supported by two policies. It is consistent with Section 1.5.D. and restates protections identified in Chapter 13, Drainage and Natural Ground Water Recharge.</td>
</tr>
<tr>
<td>Goal 2.3.</td>
<td>“Martin County shall promote orderly and balanced economic growth while protecting natural resources, enhancing the quality of life in Martin County and providing prudent fiscal management.” This Goal is supported by the proposed Objectives 2.3A thru 2.3D.</td>
</tr>
<tr>
<td>Objective 2.3A.</td>
<td>This Objective requires the adoption of Land Development Regulations that encourage economic development. It is supported by three proposed policies.</td>
</tr>
<tr>
<td>Policy 2.3A.3</td>
<td>This policy requires the creation of a concurrency database. The database will provide information to applicants seeking development approval.</td>
</tr>
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</table>
| Objective 2.3B. | This Objective requires Martin County and a given developer to provide public facilities concurrent with the need for those facilities. This “Concurrency” objective restates requirements currently found in Chapter 14, Capital Improvements. This proposed Objective is
<table>
<thead>
<tr>
<th>Objective 2.3C.</th>
<th>This Objective requires objective indicators to measure economic health. It is supported by one proposed Policy. It provides additional detail regarding the types of data referred to in Section 1.8.A. and Objective 2.1B.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objective 2.3D.</td>
<td>This Objective requires coordination with public schools and it is supported by three policies. The Objective is consistent with proposed Section 1.5.B.</td>
</tr>
<tr>
<td>Goal 2.4</td>
<td>This Goal requires prudent fiscal management to be a primary goal and is supported by five proposed Objectives.</td>
</tr>
<tr>
<td>Objective 2.4A.</td>
<td>Objective 2.4A. limits the local tax burden in the funding of facilities and services and it is supported by five proposed policies. Goal 2.3 and 2.4 are linked. While Objective 2.3B. requires public facilities concurrent with development, Objective 2.4A. limits the local tax burden.</td>
</tr>
<tr>
<td>Policy 2.4A.4.</td>
<td>A super-majority of the Board is required to determine a public purpose is served by paying impact fees with other county revenues. This super-majority requirement is in addition to those items listed in Section 1.11.D.(6).</td>
</tr>
<tr>
<td>Policy 2.4A.5</td>
<td>A data base shall be maintained with objective indicators of fiscal conservancy. This is consistent with proposed Section 1.8.A., Objective 2.1B. and Objective 2.3C.</td>
</tr>
<tr>
<td>Objective 2.4B.</td>
<td>The Capital Improvement Plan shall be used to assure concurrency management is fiscally feasible. The Capital Improvement Plan provides a detailed list of capital projects. A summary of the projects from the Capital Improvement Plan is included in an annual update to Chapter 14 of the Comp. Plan, the Capital Improvement Element.</td>
</tr>
<tr>
<td>Policy 2.4B.2</td>
<td>The prioritization for capital facility expenditures differs from the prioritization in Policy 14.1A.10. <strong>Future Plan amendments to Chapter 14 will be necessary for internal consistency.</strong> Please compare Policy 2.4B.2 with Policy 14.1A.10 attached behind this staff report.</td>
</tr>
<tr>
<td>Objective 2.4C.</td>
<td>Martin County shall manage timetables of developments. This Objective is supported by four proposed policies. It reintroduces the concept of timing residential development approval with population projections.</td>
</tr>
<tr>
<td>Policy 2.4C.1.</td>
<td>This policy limits final site plan approvals so the number of new residential units do not exceed 125 percent of the projected population in a five year period.</td>
</tr>
<tr>
<td>Policy 2.4C.2.</td>
<td>Active development projects are tracked in the system described in Policy 2.4C.1 and projects that are no longer active will be removed from the list of active residential projects being tracked.</td>
</tr>
<tr>
<td>Policy 2.4C.3.</td>
<td>Commercial and industrial land use approvals shall be limited to population growth. Staff recommends this policy be implemented through amendments to the Land Development Regulations. Said amendment to the LDR should be complete two years after this proposed Plan amendment becomes effective. Such an implementation date would allow data to be collected pursuant to</td>
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<td>Page</td>
<td>Text</td>
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<tr>
<td>1</td>
<td>Policy 2.1A.4. thus allow the implementing LDR to be based on data.</td>
</tr>
<tr>
<td>2</td>
<td>Policy 2.4C.4. “No development order shall grant vested rights to any project beyond the last year of the CIP.” Staff recommends an exception for platted single-family residential lots. Such lots have a vested right to obtain building permits after the lots are platted and construction of the final site plan is complete.</td>
</tr>
<tr>
<td>3</td>
<td>Policy 2.4C.4. A “Measure” follows Policy 2.4C.4 that is consistent with and repeats requirements proposed in Section 1.7.C.</td>
</tr>
<tr>
<td>4</td>
<td>Objective 2.4D. This Objective is supported by three Policies and prevents urban development from obtaining an agricultural tax classification (agricultural tax assessment) after urban development has been approved on the site. Both Plan amendments and development approvals may be rescinded if the property owner continues to obtain the agricultural tax classification.</td>
</tr>
<tr>
<td>5</td>
<td>Section 2.3 The Rules of interpreting the Plan have been modified to say: “Where provisions conflict, the more restrictive requirement shall govern.” Though this appears to be a simple concept that determination may not be easily made. Staff notes this is a policy change that could require future Board determinations on what policy provision will prevail.</td>
</tr>
<tr>
<td>6</td>
<td>Section 2.4 Definitions</td>
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<tr>
<td>7</td>
<td>2 The term active developments has been stricken. The term “active residential development” has been added. Staff will work with Mrs. Hurchalla to coordinate this definition with the term “active development” in Policy 2.4C.2.</td>
</tr>
<tr>
<td>8</td>
<td>18 A new term “Best available” is defined to describe authoritative data sources.</td>
</tr>
<tr>
<td>9</td>
<td>21 The term Building height is added to the Plan. The text proposed comes from Article 3, Division 7 of the zoning regulations and is only (currently) applicable to zoning districts listed in Division 7. It differs from the calculation of building height described in Division 2 of the zoning regulations. Please see the attached document Height that shows both sections of Article 3, Zoning Districts. Staff does not recommend including the definition found in the draft of Chapter 2. Staff recommends including the text of Division 2 of the zoning regulations specifically Section 3.14.A. and 3.14.B. from Article 3, Zoning Districts. This text provides more technical detail in establishing the finished floor elevation. Also, it has been in use since at least 2002.</td>
</tr>
<tr>
<td>10</td>
<td>40 The term “consistent” is defined. It uses language similar to that proposed in Chapter 1, Section 1.4.</td>
</tr>
<tr>
<td>11</td>
<td>148 Residential development tracking system is defined.</td>
</tr>
<tr>
<td>12</td>
<td>156 The term Rural Development is proposed and is consistent with the proposed definition of Urban Development, No.183. Rural Density will have a maximum density of one residential unit</td>
</tr>
</tbody>
</table>
per two gross acres. Urban will include any residential development at a density of more than one unit per two acres. This will result in the Primary Urban Service District will be Urban and the Secondary Urban Service District will be Rural.

A number of additional definitions have been added to Chapter 2. Staff has no objection or comment on other proposed definitions.

<table>
<thead>
<tr>
<th>Chapter 4, Future Land Use</th>
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<tbody>
<tr>
<td>Section 4.2.A.(8)</td>
<td>Sections 4.1 and 4.2 are frequently referred to by staff as the Data and Analysis portion of Chapter 4. These sections lay out the basis for the Goals, Objectives and Policies that make up the balance of Chapter 4. Pages 22 through 31 in the attached draft of Chapter 4 are proposed for revision. Some of the data used will remain such as Census data and the use of medium population projections from the Bureau of Economic and Business Research (BEBR). Seasonal and permanent population projections have been calculated in the past and must continue to be calculated because it is a requirement of Florida Statutes, Chapter 163. The formula for calculating housing unit need has changed. The data to be included in residential capacity calculations has also changed. It now includes vacant single family or duplex lots platted before or after 1982. It also includes constructed residential units considered excess vacant housing units. Some of the same text shown in Chapter 1, Section 1.7.C. is also shown in Section 4.2A.(8).</td>
</tr>
</tbody>
</table>

| Table 4-5                  | This table must be replaced. |
| Table 4-6                  | Residential Capacity of Unincorporated Martin County tabular data will need to be replaced either concurrent with or following the adoption of the proposed methodology. |
| Policy 4.1D.2              | This policy is revised to describe the population methodology calculation. It is consistent with the changes to Chapter 1, Section 1.7.C. and Section 4.2A.(8). |
| Policy 4.1D.3              | This policy details the calculation for housing need. It is added to match the text in Chapter 1. Housing need must be calculated every five years. |
| Policy 4.1D.4              | This policy details the calculation of residential capacity. The residential capacity calculation must be done every five years. |
| Policy 4.1D.5              | This policy does not allow the Urban Service Districts to expand if there is 15 years of residential capacity. However, “When residential capacity for an urban service district is reduced to the amount of land necessary to provide for fifteen years of population growth, the
County should begin planning for orderly expansion of the urban boundary or take other action to expand residential capacity.

When residential capacity for an urban service district is reduced to the amount of land necessary to provide for ten years of population growth, the County shall expand the urban boundary or take other action to expand residential capacity.

Note: there is a typographic error on the Policy number. The policy should be 5 not 3. For consistency, use of the term Urban Boundary must be replaced with Urban Service District in all instances.

| Policy 4.1D.6. | This policy describes the active residential development system. It is incorrectly identified as Policy 4.1D.4. This active residential development system will track the approval of residential subdivisions. It was formerly known as ARDP but, that acronym will no longer be used. As proposed it will limit approvals of residential developments within a five year period to 125 percent of the projected housing need for that period. |

| Objective 4.1F. | The complete text of the existing Objective and Policies is shown stricken so that the reader can see the proposed text more clearly. The first two Policies, shown stricken, 4.1F.1 and 4.1F.2., match that text used in the Pinecrest Lakes case. These two policies are frequently referred to as the density transition policy. The proposed text of Objective 4.1F. is supported by six Policies with a number of subsections under the proposed policies. This text provides more detail than Policy 2.1A.3. in Chapter 2. While the re-crafted text provides additional clarity, all site planning and legal consequences resulting from this text cannot be identified at this time. The granting of relief by the Board, as discussed in Section 1.3 may, be a resulting consequence. It may be appropriate to consider these changes at another date in a separate amendment. |

| Policy 4.1D.5. | As an alternative, the existing text of Objective 4.1F. and Policies 4.1F.1 and 4.1F.2 may be duplicated in Chapter 2, Overall Goals. The same text would be retained in Chapter 4 along with the existing text of Policies 4.1F.7 thru 4.1F.9. Existing Policies 4.1F.3 thru 4.1F.6 would be stricken. Striking of existing Policies 4.1F.3 thru 4.1F.6. are not likely to result in a Bert Harris claim being filed against Martin County. |

| Policy 4.7A.6. | Please see page 59. This proposed text would create threshold for applications to change the Primary or Secondary Urban Service Districts. It was crafted prior to the crafting of proposed Policy 4.1D.5. Because proposed Policy 4.1D.5. requires a minimum 10 years of residential capacity and prohibits expansion when there is 15 years of |
Conclusion:
Many of the proposed changes will have no unintended consequences, such as the super-majority requirement and the memorialized support for the Comprehensive Everglades Restoration Plan CERP. Some of the proposed changes such as the change to the density transition language may result in site planning and legal claims that cannot be fully visualized. Staff seeks additional input from the Local Planning Agency.

FIGURES/ATTACHMENTS
Chapter 1
Chapter 2
Chapter 4
Excerpt from Article 3, Zoning Districts, showing the language for calculating building height.
Excerpt from Chapter 14, Capital Improvements Element, Comprehensive Growth Management Plan.
Resolution adopted by the Board of County Commissioners.
Exhibit 13
Email from Al Forman

To Florida officials:

Please be advised that the people of Martin County strongly support the amendments to Comprehensive Plan Chapters 1, 2 and 4, as approved by the Board of County Commissioners.

We urge you to do likewise.

Al Forman, Editor
The Martin County Defender
From: tony <vicarge@comcast.net>  
Sent: Monday, May 13, 2013 1:55 PM  
To: ray.eubanks@deo.myflorida.com; complplans@freshfromflorida.com; mbusha@tcrpc.org; tracy.suber@fdoe.org; Plan.Review@dep.state.fl.us; Deena.Woodward@DOS.MyFlorida.com; gerry.oreilly@dot.state.fl.us; FWCConservationPlanningServices@myfwc.com; tmanning@sfwmd.gov; nikkiv@martin.fl.us  
Subject: Support for the Martin County Comprehensive Plan Amendment (MRT No. 13-1 ESR)

We are residents of Jensen Beach- Martin County and we strongly urge you to take a positive view on the extensive amount of revisions to the Comp Plan developed by an extremely august group of citizens.

This effort was warmly received and overwhelmingly adopted by the County residents in spite of resistance from former political hacks and some martin county employees tied into those hacks.

We trust you support and encourage the passage of democratically won objectives and will provide a speedy and in depth review of these plans so that with your comments this motion can be passed.

Yours faithfully,

Anthony J Parkinson  
CELL 305 987 9107

Head Coach- U-15 Lacrosse National Championships

Benson Green Technologies --- Solar Energy Pod www.bensongreentech.com

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April 17, 2013

Ms. Laura Regalado
Division of Community Planning & Development
DEO/Caldwell Building
107 E. Madison Street
Tallahassee, FL 32399-4120

RE: Martin County Amendment Package #13-5

Dear Ms. Regalado:

I am writing on behalf of 1000 Friends of Florida and our many Martin County members, in support of the above plan amendment package the county voted to transmit at its April 16, 2013, meeting. We strongly support the changes to Chapters 1, 2 and 4, and urge DEO to positively review these amendments.

These are necessary improvements to the comprehensive plan that is responsible for maintaining the high quality of life that makes Martin County such an attractive place to live and visit. We have followed these amendments for the last several months and have commented previously on many of them. We have identified several of the more important issues that we believe are particularly important.

For Chapter 1, a “new” Section 1.4, and in Chapter 2, Section 2.3, provides that the stricter of any plan policies applies. We believe this is an appropriate standard that can and should apply statewide. We can foresee issues where such conflicts could arise (can anyone really say that in 17 chapters and the too many to count goals, objectives and policies that overlapping and possibly conflicting standards don’t exist?), and rather than go through the plan line by line to eliminate any and all inconsistencies, this provision would provide the kind of clarity needed for important decisions by the county commission. We further believe that the commission is the appropriate place for such conflicts to be decided in such instances.

For Chapter 1, a “new” Section 1.7.C.(5) addresses density calculations. It has long been state policy for local governments to calculate the maximum residential and/or commercial density and intensity associated with a comprehensive plan amendment. Regardless of a site plan or plan amendment approval at a density that is lower than what a comprehensive plan allows, it is always the legal right of the owner to seek additional density at a later date so long as it is consistent with the comprehensive plan. To do otherwise means that the local government is not accurately describing its development capacities.

Another “new” Chapter 1 provision is Section 1.8, Evaluation and Appraisal Reports (EARs). We are aware that staff has a concern that using a 5 year update schedule instead of 7 years as currently allowed by state law will have a fiscal impact. That would seem to be a minor, if any,
cost increase given the schedule of updates the county uses for other important studies. For example, the residential capacity projections and the 15 year planning horizon are updated on a 5 year schedule, and coupled with the 10 year U.S. Census schedule, it seems that a great deal of the information needed to update the EAR would be readily available. Keeping in mind that the EAR requirements have been significantly reduced in favor of local government assessments as to what to include or exclude from the EAR, we think this will involve a minimal, if any, cost. This change has significantly lowered costs associated with doing the EAR in any event, and has made them much more local government friendly.

A final “new” proposal in Chapter 1 is Section 1.11.c(4) requires that any plan amendment not upon by April of each year be voided and then be resubmitted as a new amendment in the September plan amendment cycle. This is an important consideration that preserves the county, and public’s, right to know that an amendment reflects the most current consideration of traffic, environmental and public facility considerations. It is simply inappropriate for the public, staff, local planning agency and county commission to be forced to consider “stale” applications when an extended period of time has passed since an amendment was submitted. It is our impression that many local governments make use of a similar provision. Similarly, the recent changes to the 1985 Growth Management Act now contain a provision that any plan amendment not given a second hearing under the state coordinated review process within 180 days of receiving the state land planning agency’s report is deemed to have been withdrawn.

In Chapter 2, a “new” Section 1.9.A, The Citizens Planning Bill of Rights, is included with notice and cooling off provisions among others. We think this is an important addition that significantly improves the public’s rights to fairly participate in the development review and consideration process.

Another “new” Chapter 2 provision, Section 1.11.D.(1) provides for supermajority votes on critical issues. We believe this is a very important provision that provides both the public and developers with the certainty they need when plan changes are being considered. This item is consistent with a “citizen planning bill of rights” 1000 Friends of Florida proposed several years ago.

We do also want to indicate our strong support as well for the proposed revisions in Chapter 2, Policy 2.2C.10 regarding support for the Comprehensive Everglades Restoration Plan (CERP). We are pleased to see the county continuing its endorsement for CERP.
Laura Regalado  
April 17, 2013  
Page 3  

And finally, we found the “new” proposals for Objective 4.1F in Chapter 4 particularly helpful in clarifying the county’s consideration of appropriate relief when necessary. We find these changes would prevent a repeat of the Pinecrest Lakes Estate case, and that is something all parties should endorse and support.

Thank you for considering these comments. Please contact me at your convenience if you have any questions.

Sincerely,

Charles G. Pattison, FAICP  
President
Mike Busha

From: Littman Sherlock & Heims P.A. <lshlaw@bellsouth.net>
Sent: Tuesday, May 14, 2013 12:23 AM
To: Michael Busha
Cc: Littman Sherlock & Heims; Nicki Van Vonno
Subject: Support for Martin County CPA

Mike,

Please convey to the Treasure Coast Regional Planning Council my strong support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

The proposed amendment restores overall goals and critical policies that protect neighborhoods and establish our commitment to our environment, our economy, and our quality of life in Martin County.

Restoration of these key tenets of our Comprehensive Plan as well as policies and definitions designed to establish unambiguous requirements and expectations regarding growth and development will benefit residents, taxpayers, businesses, commercial and residential landowners.

The amendment was transmitted by our County Commission after numerous public hearings, significant public comment and participation in workshops and community meetings where all were encouraged to speak and to submit suggestions. The amendment has been thoroughly vetted on the local level.

I hope TCRPC staff will recommend approval of the amendment and that the Council will whole-heartedly support it.

Thank you for your consideration.

Virginia P. Sherlock

LITTMAN, SHERLOCK & HEIMS, P.A.
P.O. Box 1197
Stuart, FL 34995
Telephone: (772) 287-0200
Facsimile: (772) 283-1010
www.lshlaw.net
Exhibit 17
Email from Lynne Pine

From: Lynne Pine <lpine44@gmail.com>
Sent: Tuesday, May 14, 2013 6:39 AM
To: mbusha@crpc.org
Cc: nikkiv@martin.fl.us
Subject: Comp Plan Amendment

As a thirty-year resident and taxpayer in Martin County, I fully support the Comp Plan Amendment, MRT No. 13-1ESR, and look forward to your speedy approval.

Lynne Pine
Stuart
34997

Sent from my iPad
Exhibit 18
Email from Marilyn Mordes RN

Mike Busha

From: Orchid449@aol.com
Sent: Tuesday, May 14, 2013 11:38 AM
To: mbusha@tcrpc.org
Subject: MCCPA for Friday 5/17/13

Mr. Busha:

I support wholeheartedly the MCCPA, with revisions in Chapters, 1, 2, & 4.

Please do the same. Am counting on you to do what is best for the residents here.

Marilyn Mordes, RN
Martin County resident for 30 years
Mike Busha

From: Arthur Ondich <arthurondich@bellsouth.net>
Sent: Tuesday, May 14, 2013 11:50 AM
To: mbusha@tcrpc.org
Subject: Martin County Comprehensive Plan Amendment

Dear Mr. Busha:

Please include my full support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013), to the Treasure Coast Regional Planning Council. These changes are very important to the present and future state of living qualities in Martin County.

Thank you,

Arthur Ondich
12383 S.E. Plandome Drive
Hobe Sound, FL 33455
772-546-6293
Exhibit 20
Email from James and Margaret Krow

Mike Busha

From: JAMES KROW <jakml@hotmail.com>
Sent: Tuesday, May 14, 2013 11:59 AM
To: mbusha@tcrpc.org
Cc: nikkiv@martin.fl.us
Subject: Agenda Item 11

Full View
ASAP - Please send a note to TCRPC of Support for Martin County CPA -- Weberman & Big Sugar Still Lobbying Against them.

“elzer@gate.net”
From: <elzer@gate.net>
View Contact
To: elzer@gate.net

Mr. Michael Busha, TCRPC executive director,

HELP RESTORE OUR PROTECTIONS! Please support the Martin County Comprehensive Plan

Amendment revising chapter 1, 2 & 4 (Agenda Item 11)

Thank you,

James & Margaret Krow
Stephanie Heidt

From: David Eldridge <deldrid1@bellsouth.net>
Sent: Tuesday, May 14, 2013 12:38 PM
To: mbusha@tcrpc.org
Subject: Amendments

Please approve the amendments to the Martin County Comprehensive Plan.

Thank you,

Dave Eldridge
Mike Busha

From: Peterconze@aol.com
Sent: Tuesday, May 14, 2013 12:58 PM
To: mbusha@tcrpc.org
Cc: nikkip@martin.fl.us
Subject: Support for the Martin County Comp Plan Amendment revising Chapters 1, 2, and 4

Dear Mr. Busha:

On behalf of the Guardians of Martin County, please convey to the Treasure Coast Regional Planning Council our strongest support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

The proposed amendment restores overall goals and critical policies that protect all our County's neighborhoods and establish our residents' commitment to our environment, our economy, and our quality of life in Martin County.

As a consequence, restoration of these key principles and provisions of our Comprehensive Plan, embodying the policies and definitions necessary to establish unambiguous requirements and expectations regarding growth and development, will be of significant benefit to residents, taxpayers, businesses, commercial and residential landowners.

As you are undoubtedly aware, the amendment was transmitted by our County Commission after intensive and numerous public hearings, designed to encourage all interested public comment, with concerned residents participating in workshops and community meetings in which all were provided ample opportunity to speak and to submit suggestions, pro and con. Consequently, and most importantly, the amendment has been thoroughly vetted on the local level and enjoys the support of a majority of Martin County residents.

I hope TCRPC staff, fully acknowledging the comprehensive effort and ultimately the positive results achieved through this process, will recommend approval of the amendment and that the Council will whole-heartedly support it. Thank you for your consideration.

Yours sincerely,

Peter H. Conze, Jr.
President, The Guardians of Martin County
240 South Beach Road
Hobe Sound, FL 33455-2508
home: (772) 546-0630
fax: (772) 546-0805
cell: (401) 474-9774
e-mail: peterconze@aol.com
Dear sir:

I am forwarding a letter from Ginny Sherlock with which I wholeheartedly agree. I’m writing this on my iPhone and I thought this would be easiest.

Please support the Comp plan amendments. There's just so few places as wonderful Martin County. I support keeping them that way.

Thanks,
Mary E Starzinski, DO

Please convey to the Treasure Coast Regional Planning Council my strong support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

The proposed amendment restores overall goals and critical policies that protect neighborhoods and establish our commitment to our environment, our economy, and our quality of life in Martin County.

Restoration of these key tenets of our Comprehensive Plan as well as policies and definitions designed to establish unambiguous requirements and expectations regarding growth and development will benefit residents, taxpayers, businesses, commercial and residential landowners.

The amendment was transmitted by our County Commission after numerous public hearings, significant public comment and participation in workshops and community meetings where all were encouraged to speak and to submit suggestions. The amendment has been thoroughly vetted on the local level.

I hope TCRPC staff will recommend approval of the amendment and that the Council will whole-heartedly support it.

Thank you for your consideration.

Virginia P. Sherlock
LITTMAN, SHERLOCK & HEIMS, P.A.
P.O. Box 1197
Stuart, FL 34995
Telephone: (772) 287-0200
Facsimile: (772) 283-1010
www.lshlaw.net
Exhibit 24
Email from Susan and Paul Yorke

From: Susan Yorke <s_yorke@yahoo.com>
Sent: Tuesday, May 14, 2013 1:30 PM
To: mbusha@tcrpc.org
Cc: nikki@martin.fl.us
Subject: Martin Plan Amendments - Agenda item 11

We strongly support the proposed Martin County Comprehensive Plan Amendments to Chapters 1, 2 and 4. We feel that the revisions reflect the citizens’ desire to manage growth for the benefit of residents and businesses in the most cost effective manner.

These amendments strengthen the sustainability of our county and its resources. They require consistent data and analysis. The plan will be given stronger legal standing and policies will be more enforceable.

The supermajority vote is needed for amendments on critical issues such as the 4 story height limit, the 15 unit per acre density cap, the urban boundary and impacts to the St Lucie River.

It is our hope that the TCRPC Staff and TCRPC Board Members will recommend approval of the amendments.

Thank you,

Susan and Paul Yorke
7501 SW Springhaven Ave
Indiantown, FL 34956
Email from Frank Tidikis

Dear Mr. Buscha,
I urge you and the TCRPC to support the proposed amendments to the Martin County Comprehensive Plan.
These amendments restore the integrity of the Plan and reduces the ambiguities introduced over the last eight years. They reflect the views of the majority of residents of Martin County and have been vetted through several open forums.
Thank you for your anticipated favorable consideration, Frank Tidikis
Mr. Michael Busha  
Executive Director  
Treasure Coast Regional Planning Council  
421 SW Camden Ave.  
Stuart, FL 34994  

Dear Mr. Busha:

This letter is written on behalf of the members of the Economic Council of Martin County in order to express our concerns regarding the proposed amendments to Chapters, 1, 2 and 4 of the Martin County Comprehensive Growth Management Plan. Please understand that it is impossible for us to set forth in this letter all of the issues and problems that exist with the proposed amendments, but we will attempt to address what we believe are outstanding issues and inadequacies which may be relevant to the mission of the Treasure Coast Regional Planning Council.

First of all, we believe that the process Martin County has implemented in proposing the amendments is fatally flawed.

- All past changes to the Comp Plan have included a citizens/technical advisory committee review. This entire process has been implemented and controlled by a private individual, with no record of a commission vote of approval, no RFP, no notice to the public, no free market competition, no defined scope of services, etc. It would appear that the Martin County staff and commission have allowed this individual to usurp their responsibilities to all of the citizens of Martin County.

- This process appears to be in violation of Florida Statute Section 287.001 which states that fair and open competition is a basic tenet of public procurement, that documentation of acts taken are important means of establishing public confidence, and detailed justification of agency decisions must be maintained.

- The proposed amendments are not based on any substantive and competent data, analysis or methodology. Many of the amendments are vague and ambiguous and result in a lack of meaningful and predictable standards which are the hallmark of a fair and strong Comp Plan. This flawed process has resulted in a number of critical problems and creates internal inconsistencies within the plan.

The Amendments dealing with water resources and agricultural classifications, usurp the regulatory powers of the state. It is the state, not individual counties, which define wetlands; it is the state that provides the guidelines for population analysis; it is the state that defines wetlands. It makes sense for the state to play this role because, if each county could make up their own definitions, there would be no way to compare or enforce statewide policies and concerns.
The proposed language regarding the Shoreline Protection Zone effectively takes away the rights of waterfront property owners to use and enjoy their own property. For example, many won’t be able to have pavers or decks in a large percentage of their own backyards. This new regulation would negatively impact the public use and enjoyment of our waterfronits. This change is being proposed with no proven environmental benefit and without adequate notice to affected property owners.

The proposed changes are not consistent with our regional efforts. Waterfront property owners in Jupiter Island, Sewall’s Point and Stuart do not have to comply with these highly restrictive new rules. None of these municipalities which share the St. Lucie River and Intracoastal Waterway with the rest of us seem to think that these types of draconian policies are necessary to protect our waterways. Where is the evidence that policies drastic enough to deprive owners of the enjoyment of their own property are necessary, or that these policy changes will improve our environment?

The requirement for super majority votes for certain future amendments to the plan lack meaningful and predictable standards and are therefore inconsistent with Section 163.3177(1) of the Florida Statutes.

**Policy 2.1.A.3: Amends the density transition** policies in Chapter 4 and

- Eliminates the exception to the density transition zone requirements in current Policy 4.1F.4(1) where the proposed residential development abuts non-residential development;
- Eliminates the exception for mixed use overlays within the CRA’s;
- Amends current Policy 4.1F.4(2) exception for projects abutting existing roads with a 30-foot minimum right-of-way (ROW) by increasing the width of the ROW to 50 feet and restricting the policy exception to public roads only;
- Eliminates the right to place utilities, stormwater facilities or roads within the density transition zone “tier” even when the developer chooses not to build any homes within the tier.

**Policy 2.4c.3: This proposed change to the Comp Plan limits job growth by limiting commercial and industrial land use.** Martin County’s tax burden already falls far too heavily on its residents because we don’t have enough businesses contributing to our tax base. Limiting commercial approvals based on population makes no sense. While it is easy to draw nice neat lines between counties for legal and governmental purposes, commercial markets don’t work that way. Businesses sell products within and outside their own markets. It has been established beyond any doubt that communities that sell more goods outside their boundaries are far better off.

**Objective 2.4d will disqualify lands that are being used for agricultural purposes from obtaining an agricultural classification if the property receives any development approvals.** Regardless of any underlying development approvals, property should be entitled to an agricultural classification if the property is being used for agricultural purposes.

**Chapter 4 includes changes in the methodology used to calculate residential capacity and future needs.** The proposed methodology is untested, out of sync with surrounding counties and the rest of the state and may result in a lack of proper planning for residential and commercial growth in Martin County.
Other areas of concern include, but are not limited to: Orderly expansion of the urban service boundary, redevelopment of our community re-development areas, etc.

As stated earlier, these are only some of the concerns that we have with the proposed amendments. We believe that many of the proposed changes negatively impact economic growth in Martin County by discouraging businesses from locating in or re-locating to Martin County.

Pursuant to Section 163.3184(3)(b)1.3.a. of the Florida Statutes, we believe that a thorough review of the proposed amendments by the Treasure Coast Regional Planning Council will show adoption of the proposed amendments will have an adverse effect on regional resources and facilities identified in the strategic regional policy plan resulting in extra jurisdictional impacts on other governments and municipalities within the region. We respectfully request that the Treasure Coast Regional Planning Council transmit well-considered and appropriate comments to the Department of Economic Opportunity regarding inconsistencies and adverse impacts that the proposed amendments will have on the strategic regional policy plan.

Therefore, with regard to the inconsistencies that would be created, we would request that these amendments be held until all planned amendments to other chapters of the comp plan are considered.

Your consideration regarding this matter is greatly appreciated.

Sincerely,

Tammy Simoneau  
President & CEO

Tom McNicholas  
Board Chairman
Exhibit 27
Email from Ken and Meredydd Francke

From: Meredydd Francke <racerkat@hotmail.com>
Sent: Tuesday, May 14, 2013 3:58 PM
To: mbusha@tcrpc.org
Cc: nikkiv@martin.fl.us
Subject: TCRPC Amendment - Agenda Item 11, 5-17-13

We support the Treasure Coast Regional Planning Council for the for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

His proposed amendment will restore overall goals and critical policies that protect our neighborhoods and establish our commitment to our environment, our economy, and our quality of life in Martin County.

Restoration of these key tenets of our Comprehensive Plan as well as policies and definitions designed to establish unambiguous requirements and expectations regarding growth and development will benefit residents, taxpayers, businesses, commercial and residential landowners. The amendment was transmitted by our County Commission after numerous public hearings, significant public comment and participation in workshops and community meetings where all were encouraged to speak and to submit suggestions. The amendment has been thoroughly vetted on the local level.

I hope TCRPC staff will recommend approval of the amendment and that the Council will wholeheartedly support it.

Ken and Meredydd Francke
Stuart, FL
Email from Kenneth E. Desch

Mike Busha

From: kedesch <kedesch@bellsouth.net>
Sent: Tuesday, May 14, 2013 8:28 PM
To: mbusha@tcrpc.org

Mike,

Please convey to the Treasure Coast Regional Planning Council my strong support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

The proposed amendment restores overall goals and critical policies that protect neighborhoods and establish our commitment to our environment, our economy, and our quality of life in Martin County.

Restoration of these key tenets of our Comprehensive Plan as well as policies and definitions designed to establish unambiguous requirements and expectations regarding growth and development will benefit residents, taxpayers, businesses, commercial and residential landowners.

The amendment was transmitted by our County Commission after numerous public hearings, significant public comment and participation in workshops and community meetings where all were encouraged to speak and to submit suggestions. The amendment has been thoroughly vetted on the local level.

I hope TCRPC staff will recommend approval of the amendment and that the Council will whole-heartedly support it.

Thank you for your consideration.

Kenneth E. Desch
Exhibit 29
Email from Jane and George Kaiser

From: George Kaiser <george_kaiser@msn.com>
Sent: Tuesday, May 14, 2013 9:00 PM
To: mbusha@tcrpc.org; nikkiv@martin.fl.us
Subject: Martin County Comp Plan Amendment

Martin County Comp Plan Amendment revising Chapters 1, 2 and 4 goes before the Treasure Coast Regional Planning Council on Friday and we hope it will receive the support it deserves, as it is the product of considerable citizen input. It will make Martin County a better place to live in and will undo considerable damage done to decontrol development over recent years.

Sincerely,

Jane and George Kaiser
Exhibit 30  
Email from John Whitney Payson

---

**Mike Busha**

**From:** JWPayson <mtpjwp@aol.com>  
**Sent:** Wednesday, May 15, 2013 11:43 AM  
**To:** mbusha@tcrpc.org  
**Cc:** nkkiv@martin.fl.us  
**Subject:** Martin County Comprehensive Plan Amendment

Dear Mr. Busha,

I am writing my strong support for the proposed amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

I began coming to Hobe Sound with my parents in the 1940’s and moved here as a resident in 1972. I have spent many an hour on the byways, the waterways and the lands of our beloved county. In my youth, I took small boats up the Loxahatchee to Trapper Nelson’s, and in the 1970’s, I took a 21’ inboard/outboard all the way up the North Fork of the St. Lucie to White City. Prior to that, my Dad and I had fished with the legendary Burt Pruitt. The two rivers were wild and scenic for most of their length. However, the Loxahatchee meanders into Palm Beach County, and the St. Lucie’s headwaters are in St. Lucie County. Now to find wild, one needs to go into Jonathan Dickinson State Park where, thankfully, prior generations saw to it the upper Loxahatchee shall always remain pristine, though saltwater intrusion has made its mark on changing the flora along the banks. Burt Pruitt’s campsite now sits in the midst of Port St. Lucie.

If you take a boat out the Jupiter Inlet and run North, you’ll see high rises until you hit the Martin County line. Not far past the St. Lucie Inlet you see the high rises again until you get to Indian River County.

Martin County’s Comp Plan has been the envy of our neighbors to the North and South, and so far our comp plan has ensured that we will not emulate the overdevelopment that has paved over much of Florida to the South of us. As a member, now Chair, of the Town of Jupiter Island’s LPA, several years ago we reviewed our town’s Comp Plan, and recommended changes to our town commission to conform with state requirements. Part of our mission is to work with the county and other communities in Martin County to protect the county’s comp plan and to avoid unnecessary development in our western, agricultural lands. In recent years there have been attempts to circumvent the comp plan and create urban encroachment with such as an extreme water park and new cities on what are now ranch or farm lands. Citizen groups have been formed to assist and advise in this regard, such as The Guardians of Martin County (I’m on their advisory board) and Preserve Martin County. One of Martin County’s leading residents, and past county commissioner, Maggie Hurchalla, took on the task of writing amendments to the comp plan that will help us avoid recurring attempts to undermine our comp plan and protect Martin County well into the future. It is my understanding the amendments will not bring a halt to all development. There are exceptions written into the rule such as allowing green energy plants such as planned by U.S. EcoGen. And the comp plan does allow for changes to the urban boundary at such time it is needed to sustain reasonable growth.

As you know, the state has weakened its own oversight of county comp plans, leaving decisions to change them up to the local communities. This has allowed developers, many from outside the counties involved, to support candidates for county commissions who can serve as their pawns, usually hyping the jobs the developments will create. Greg Braun of The Guardians has put together a powerful presentation that uncovers the lies in those claims.

Lastly, there are ample undeveloped lands within Martin County’s urban boundary on which we can welcome new development. Those of us involved in past battles against urban creep encourage the county to assist landowners within the urban boundary to proceed with plans to develop those lands before we consider expanding the urban boundary westward. The proposed amendments will not stifle those plans. In fact it will help them, as the promise of development in the agricultural lands will be deferred well into the future, after the urban lands are fully developed.

Mr. Busha, please share my email with the TCRPC and urge them to support the proposed amendments. I, for one, would love to know my grandchildren can enjoy the same benefits I have enjoyed, fishing the waters, hunting the lands, and enjoying the green scene that our beloved county offers.

Sincerely,

John Whitney Payson  
11870 SE Dixie Highway  
Hobe Sound, FL 33455  
772-546-2999 Office
Exhibit 31
Email from Leroy Hutchinson

From: RON HUTCHINSON <elronski@comcast.net>
Sent: Wednesday, May 15, 2013 12:22 PM
To: Michael Busha
Subject: Support for Martin County CPA

Mr. Busha:

Please convey to the Treasure Coast Regional Planning Council my strong support for the proposed Martin County Comprehensive Plan Amendment revising Chapters 1, 2 and 4 (TCRPC Agenda Item 11, May 17, 2013).

The proposed amendment restores overall goals and critical policies that protect neighborhoods and establish our commitment to our environment, our economy, and our quality of life in Martin County.

Restoration of these key tenets of our Comprehensive Plan as well as policies and definitions designed to establish unambiguous requirements and expectations regarding growth and development will benefit residents, taxpayers, businesses, commercial and residential landowners.

The amendment was transmitted by our County Commission after numerous public hearings, significant public comment and participation in workshops and community meetings where all were encouraged to speak and to submit suggestions. The amendment has been thoroughly vetted on the local level.

I hope TCRPC staff will recommend approval of the amendment and that the Council will whole-heartedly support it.

Thank you for your consideration.

Leroy Hutchinson
Palm City

1
Mike Busha

From: DGERGBRAUN@aol.com
Sent: Thursday, May 16, 2013 2:46 PM
To: mbusha@tcrpc.org
Cc: nikkiv@martin.fl.us
Subject: Martin County Comp Plan Amendments

Greetings Michael: Please add my comments to others you have received in support of the community-initiated amendments to the Martin County Comprehensive Plan that are to discussed by the TCRPC on May 17, 2013.

As a professional ecologist who has worked and lived in the area for over 30 years, I have had first-hand experience with the positive environmental, economic and social results of Martin County's well-thought out Comprehensive Growth Management Plan. Restoring previously-removed goals and strengthening the Comp Plan by requiring a super-majority of commission votes to change key elements are improvements that will benefit our community.

I have attended a number of community, LPA and County Commission meetings during the last several month where these amendments have been discussed, and I support the modifications that have been approved by the Martin County Commission. I hope that RPC staff supports these changes, and that the full Council will support Martin County's adoption of these changes.

Greg Braun
Sustainable Ecosystems International
561-575-2028; cellular: 561-758-3417