



**PLANNERS ADVISORY COMMITTEE (PAC)  
MEETING AGENDA**

**May 3, 2021 – 1:30 p.m.**

Magnolia Room at Florida Botanical Gardens  
12520 Ulmerton Road, Largo

**THE PLANNING COUNCIL AND METROPOLITAN PLANNING ORGANIZATION FOR PINELLAS COUNTY**

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**1. CALL TO ORDER AND INTRODUCTIONS**

**2. APPROVAL OF MINUTES – April 5, 2021**

**3. REVIEW OF FORWARD PINELLAS AGENDA FOR May 12, 2021  
PUBLIC HEARING ITEMS**

A. [Case CW 20-16 – City of St. Petersburg](#)

**REGULAR AGENDA ITEMS**

B. [Map Adjustment – City of Clearwater – Official Acceptance](#)

C. [CPA Actions and Tier I Countywide Plan Map Amendments](#)

**4. PLANNING TOPICS OF INTEREST**

A. [Proposed Amendments to the Countywide Rules](#)

1. Senior Housing Bonus – Action (Nousheen Rahman)

2. Map Adjustments – Action (Linda Fisher)

B. [Legislative Update](#) (Linda Fisher)

**5. OTHER PAC BUSINESS/PAC DISCUSSION AND UPCOMING AGENDA**

A. [Pinellas SPOTlight Emphasis Areas Update](#) (Information by Rodney Chatman)

**6. UPCOMING EVENTS**

|                       |   |
|-----------------------|---|
| May 5-7 <sup>th</sup> | <a href="#">APA National Conference</a>         |
| TBD                   | <a href="#">APA Florida Conference in Miami</a> |

**7. ADJOURNMENT**

**NEXT PAC MEETING – TUESDAY, JUNE 1, 2021**

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact the Office of Human Rights, 400 South Fort Harrison Avenue, Suite 300, Clearwater, Florida 33756; [(727) 464-4062 (V/TDD)] at least seven days prior to the meeting.*

*Appeals: Certain public meetings result in actions taken by the public board, commission or agency that may be appealed; in such case persons are advised that, if they decide to appeal any decision made at a public meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

**Planners Advisory Committee – May 3, 2021**



**2. Approval of Minutes – April 5, 2021**

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**SUMMARY**

The Summary Agenda Action Sheet for the April 5, 2021 PAC meeting is attached for committee review and approval.

**ATTACHMENT(S):** PAC Summary Agenda Action Sheet for the April 5, 2021 meeting

**ACTION:** PAC to approve the Summary Agenda Action Sheet from the April 5, 2021 meeting.

**PAC AGENDA – SUMMARY AGENDA ACTION SHEET**  
**DATE: APRIL 5, 2021**

| ITEM   | ACTION TAKEN   | VOTE |
|--|--|------|
| <p>1. <u>CALL TO ORDER AND ROLL CALL</u></p>   | <p>The PAC held its April 5, 2021 meeting in the Magnolia Room at the Florida Botanical Gardens; 12520 Ulmerton Road, Largo.</p> <p>The Chair, Britton Wilson, called the meeting to order at 1:30 p.m. and the members introduced themselves.</p> <p>Committee members in attendance included Britton Wilson, Kyle Brotherton, Derek Reeves, Corey Gray, Alicia Parinello, Frances Leong-Sharp (arrived at 1:47 p.m.), Marshall Touchton, Jensen Hackett, Heather Sobush, Tatiana Childress, Fred Metcalf (arrived at 1:33 p.m.), Jamie Viveiros, Jennifer Rowan (arrived at 1:34 p.m.).</p> <p>Forward Pinellas staff included Rodney Chatman, Linda Fisher, Nousheen Rahman, Angela Ryan, Christina Mendoza, Austin Britt, and Tina Jablon.</p> |      |
| <p>2. <u>MINUTES OF REGULAR PAC MEETING OF MARCH 1, 2021</u></p>   | <p>Motion: Marshall Touchton<br/>           Second: Kyle Brotherton</p> <p>Note: Three members had not yet arrived at the meeting at the time of this vote.</p>  | 10-0 |
| <p>3. <u>REVIEW OF FORWARD PINELLAS AGENDA FOR APRIL 14, 2021 MEETING</u></p> <p><u>REGULAR AGENDA ITEMS</u></p> <p>A. CPA Actions and Tier I Countywide Plan Map Amendments</p> | <p>Rodney Chatman updated the PAC members on the staff reviewed Tier I Map Amendments and recent actions taken by the CPA. No action required; informational item only.</p>  |      |

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| <p>4. <u>PLANNING TOPICS OF INTEREST</u><br/> A. Forward Pinellas Equity Assessment</p> | <p>Angela Ryan introduced this item by explaining the rationale for pursuing the equity assessment. She then reviewed the phases and timeline for the project and detailed the multiple components which included: public outreach, an external assessment, and an internal assessment. As part of the internal assessment, the composition of the Forward Pinellas Board and Advisory Committees are being evaluated. The PAC members were asked to complete a demographic survey for each representative and alternate that currently serves on the committee.</p>  |  |
| <p>B. Legislative Update</p>  | <p>Linda Fisher updated the PAC members on recent activity surrounding bills of interest this legislative session. Specifically, she provided updates on the bills regarding urban agriculture, legal notices, vacation rentals, pedestrian crossings and building design.</p> <p>She emphasized the importance of two bills in particular that will have significant impacts to Pinellas County.</p> <p>HB 55 and SB 284 would preempt the ability of local jurisdictions to regulate any building design for single family homes and duplexes. She advised that the City of St. Petersburg, along with 1000 Friends of Florida, have lobbied to see the bill language amended to only apply to lots that have never been developed. This would significantly reduce the impacts to Pinellas County.</p> <p>HB 1113 and SB 1412 would limit state and local governments' ability to use yellow rectangular rapid flashing beacons (RRFBs) at pedestrian crossings. These RRFBs have been shown to reduce crashes by nearly 50%. If the bills are successful, more than 320 RRFBs could be required to be removed across the county.</p> <p>Ms. Fisher advised the PAC members that Forward Pinellas has written letters of opposition to the two bills and encouraged other local governments and constituents to do the same.</p> |  |

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| <p>C. Residential Equivalency Standards Update</p> | <p>Nousheen Rahman reminded the committee members of the history concerning this topic. She thanked the members for participating in a recent survey and reviewed the results. She then provided a preliminary outline of a proposed amendment to the Countywide Rules as a possible solution. Section 4.3.2.5 of the Rules would be amended to add a Senior Housing Bonus for uses such as Assisted Living Facilities (ALFs) which would allow for an increase from the current standard of three beds per dwelling unit acre under certain conditions. It was explained that this would be an option available to local governments, but not a requirement. She further cautioned that this bonus would not be permissible in the Coastal High Hazard Areas (CHHAs). Ms. Rahman outlined the next steps in this process which include a review and recommendation from the PAC prior to proceeding to the Forward Pinellas Board for action.</p> |             |
| <p>D. Gateway/Mid-County Working Group</p>         | <p>Christina Mendoza reminded the committee of the action previously taken by PAC to establish a subcommittee to oversee multi-jurisdictional projects that develop within the Gateway/Mid-County Area Master Plan boundaries. She explained that after further consideration by staff, and in order to avoid any concerns regarding Sunshine Law, it would be better to have a working group that does not consist of any PAC members instead. The working group would collaborate on projects as needed. The PAC took action to dissolve the previously established subcommittee.</p> <p>Motion: Heather Sobush<br/>Second: Derek Reeves</p>   | <p>13-0</p> |
| <p>E. Orientation Guide for New PAC Members</p>    | <p>Austin Britt, Forward Pinellas Intern, advised the committee on the reasoning behind the development of the PAC Orientation Guide. He explained that staff felt it would improve the learning curve for new members and create balance through the committee overall. Mr. Britt then previewed the guide with the members. It was further explained that Rodney Chatman would begin meeting with each new member going forward to review the guide's contents, discuss the role of the</p>  |             |

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|  | PAC, and summarize the responsibilities of each PAC member.  |  |
| 5. <u>OTHER PAC BUSINESS/PAC DISCUSSION AND UPCOMING AGENDA</u><br>A. Pinellas SPOTlight Emphasis Areas Update (Information) | Rodney Chatman alerted the committee members that Forward Pinellas staff are currently working to add a new Emphasis Area and outlined some preliminary details. He advised the group that the Forward Pinellas Board would be considering the new topic at the April meeting. |  |
| 6. <u>UPCOMING EVENTS</u>  | The PAC Chair reviewed a few upcoming events of interest for the group.  |  |
| 7. <u>ADJOURNMENT</u>  | The meeting was adjourned at 2:11 p.m.   |  |

Respectfully Submitted,

\_\_\_\_\_  
PAC Chairman

\_\_\_\_\_  
Date

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**SUMMARY**

From: Public/Semi-Public and Residential Low Medium  
To: Residential Medium and Residential Low Medium  
Area: 4.37 acres m.o.l.  
Location: 635 64<sup>th</sup> Street South

This proposed amendment is submitted by the City of St. Petersburg to amend a property from Public/Semi-Public (intended to recognize institutional and transportation/utility uses that serve the community or region, especially larger facilities having acreage exceeding the thresholds established in other plan categories, which are consistent with the need, character, and scale of such uses relative to the surrounding uses, transportation facilities, and natural resource features, and may include residential as part of the mix of uses) and Residential Low Medium (intended to depict areas that are now developed, or appropriate to be developed, in a suburban, low density or moderately dense residential manner; and to recognize such areas as primarily well-suited for residential uses that are consistent with the suburban qualities, transportation facilities, including transit, and natural resources of such areas) to Residential Medium (intended to depict those areas of the county that are now developed, or appropriate to be developed, in a medium-density residential manner; and to recognize such areas as primarily well-suited for residential uses that are consistent with the urban qualities, transportation facilities, including transit, and natural resources of such areas) and Residential Low Medium.

The amendment area is located on 64<sup>th</sup> Street South, abutting 7<sup>th</sup> Avenue South, and is currently used as a church. The purpose of the proposed amendment is to allow for multifamily residential development. As part of the City of St. Petersburg's StPete2050 visioning initiative, a market assessment was completed to assess projected population growth by land use type and identified an increasing demand for new development of residential units. Furthermore, a trending combination of decreasing church attendance and increasing demand for new residential units has resulted in requests for reducing church site boundaries, creating new infill opportunities for residential development. Large consolidated lots commonly associated with churches are helping the community address a growing need for more housing, hence the proposed amendment.

In late 2020, an organized neighborhood opposition group (PGSP Neighbors United, Inc.) filed a legal challenge to the proposed amendment to the future land use map of the City's Comprehensive Plan. The City's request to amend the Countywide Plan Map was put on hold pending a final ruling from the Department of Economic Opportunity. In March 2021, the administrative law judge issued a final order which found that the amendment was in compliance with the relevant Florida Statutes.

## **FINDINGS**

Staff submits the following findings in support of the recommendation for approval:

- A. The Residential Medium and Residential Low Medium categories are appropriate for the proposed use of the property and is consistent with the criteria for utilization of this category.
- B. The proposed amendment either does not involve, or will not significantly impact, the remaining relevant countywide considerations.

Please see accompanying attachments and documents in explanation and support of these findings.

## **LIST OF MAPS & ATTACHMENTS:**

|       |                              |
|-------|------------------------------|
| Map 1 | Location Map                 |
| Map 2 | Jurisdictional Map           |
| Map 3 | Aerial Map                   |
| Map 4 | Current Countywide Plan Map  |
| Map 5 | Proposed Countywide Plan Map |
| Map 6 | Coastal High Hazard Area Map |

Attachment 1 Forward Pinellas Staff Analysis

[Attachment 2 Public Comments – St. Petersburg City Council Meeting](#)

Attachment 3 Coastal High Hazard Area Map (submitted by City)

Attachment 4 DEO Final Order

## **MEETING DATES:**

Planners Advisory Committee, May 3, 2021 at 1:30 p.m.

Forward Pinellas, May 12, 2021 at 1:00 p.m.

Countywide Planning Authority, June 8, 2021 at 9:30 a.m.



# Case CW20-16

## Map 1: Location Map

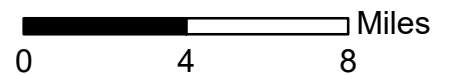


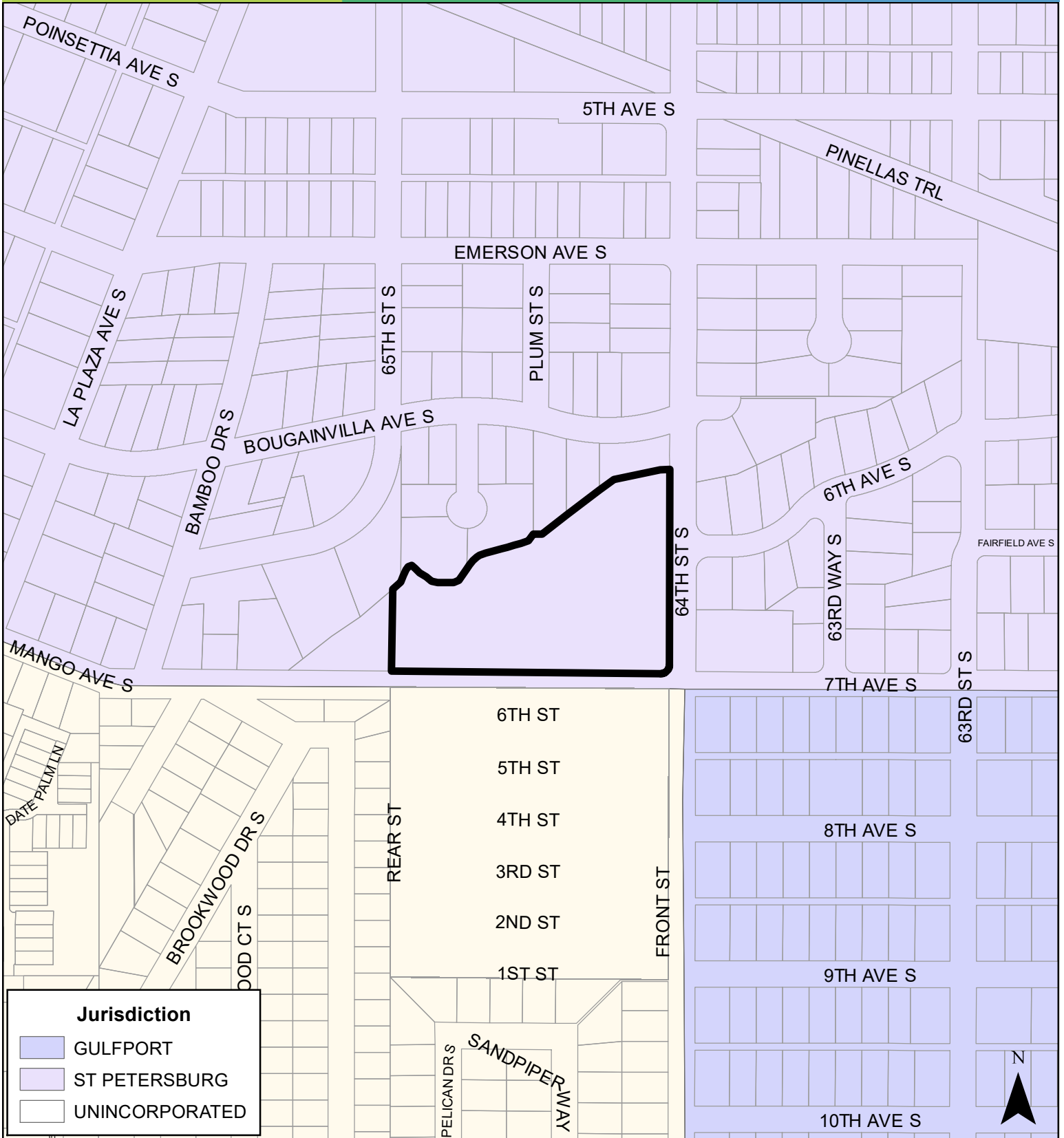
**JURISDICTION:** St. Petersburg

**AREA:** 4.37 Acres

**FROM:** Public/Semi-Public and Residential Low Medium

**TO:** Residential Medium and Residential Low Medium

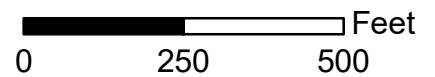




**JURISDICTION:** St. Petersburg

**AREA:** 4.37 Acres

**FROM:** Public/Semi-Public and Residential Low Medium  
**TO:** Residential Medium and Residential Low Medium



# Case CW20-16

## Map 3: Aerial Map



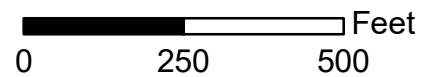
**JURISDICTION:** St. Petersburg

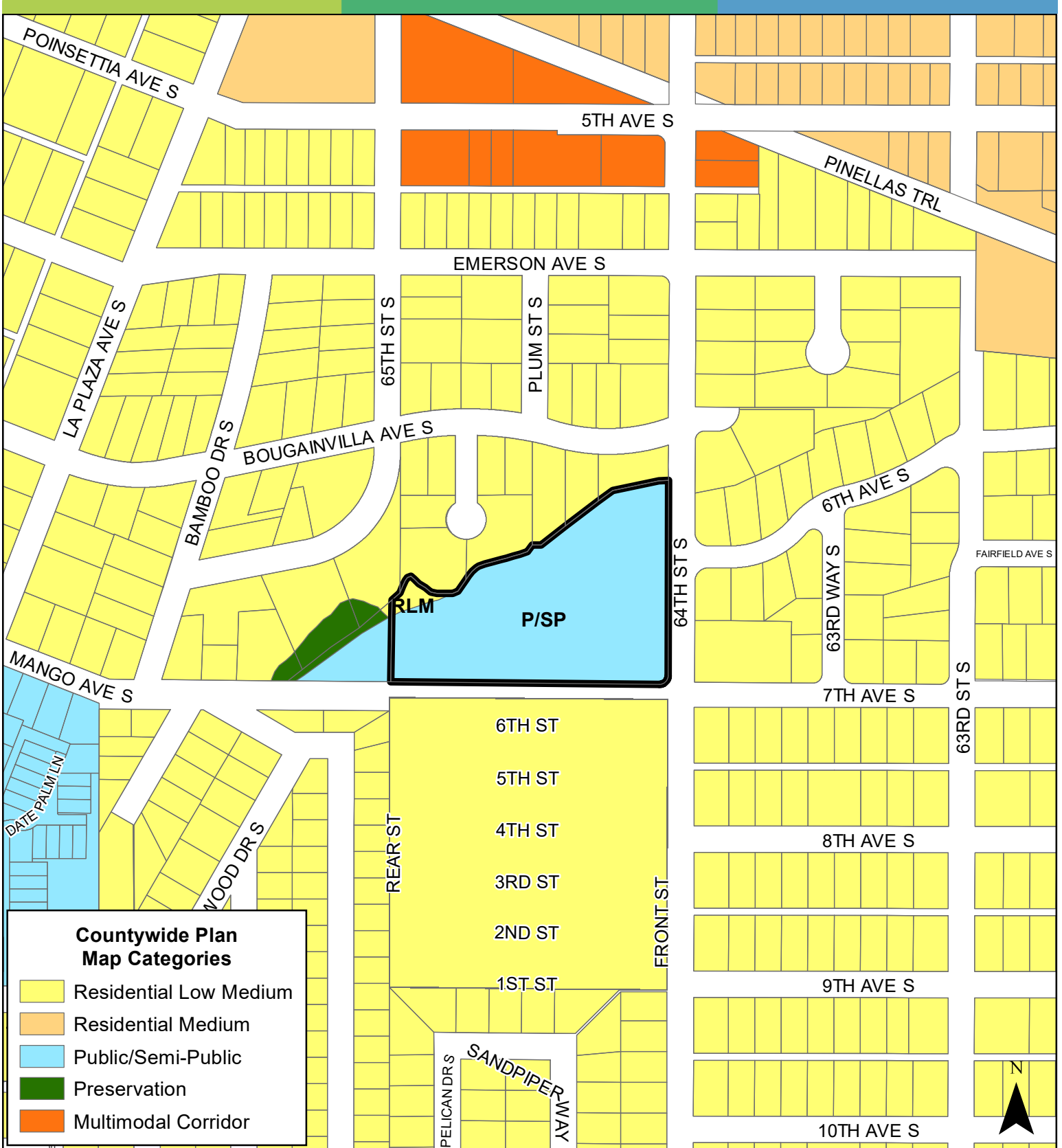
**AREA:** 4.37 Acres

**FROM:**

**TO:**

Public/Semi Public and  
Residential Low Medium  
Residential Medium and  
Residential Low Medium

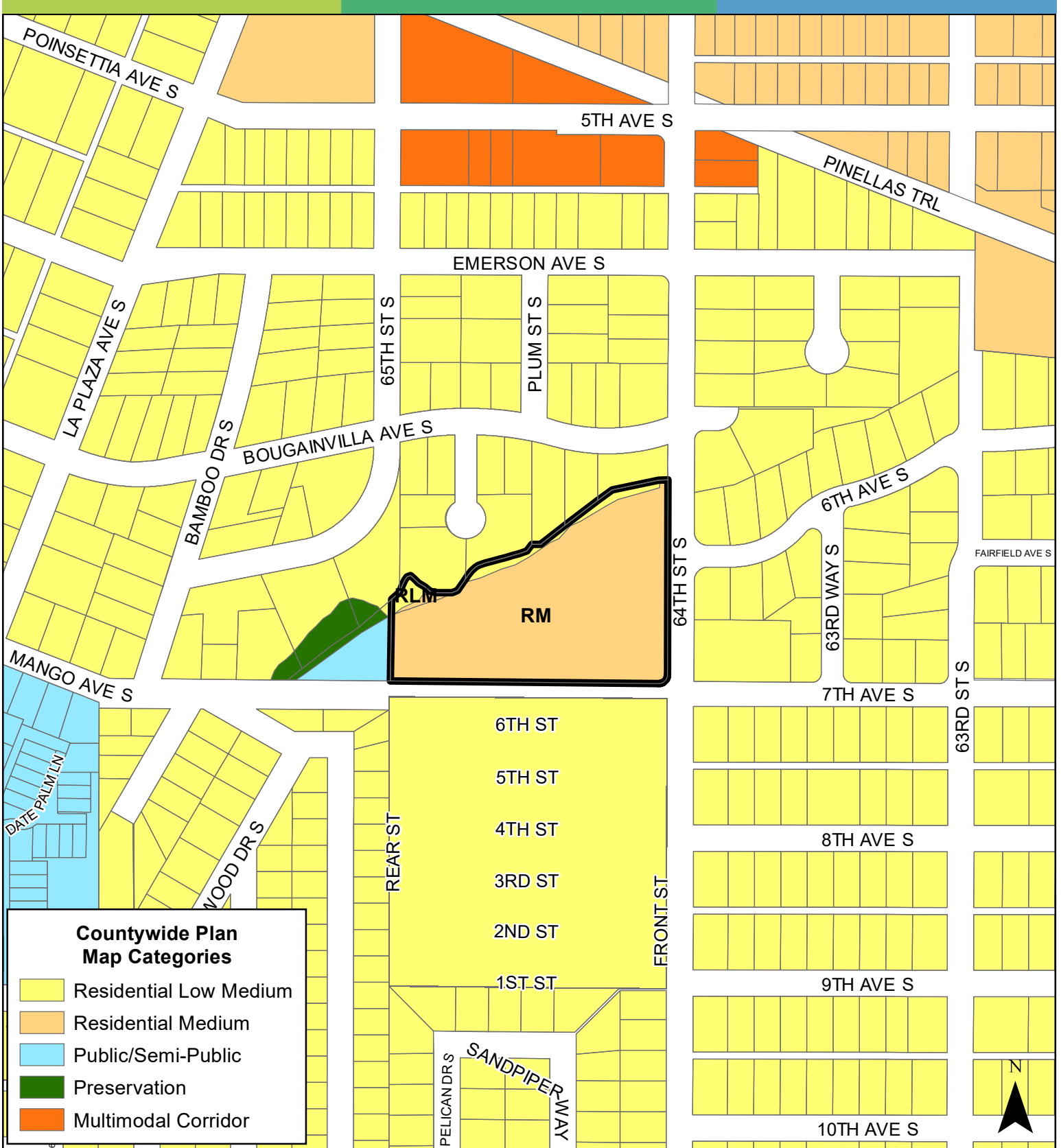


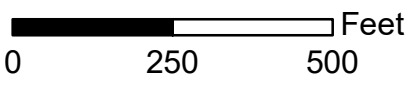


**Countywide Plan Map Categories**

- Residential Low Medium
- Residential Medium
- Public/Semi-Public
- Preservation
- Multimodal Corridor

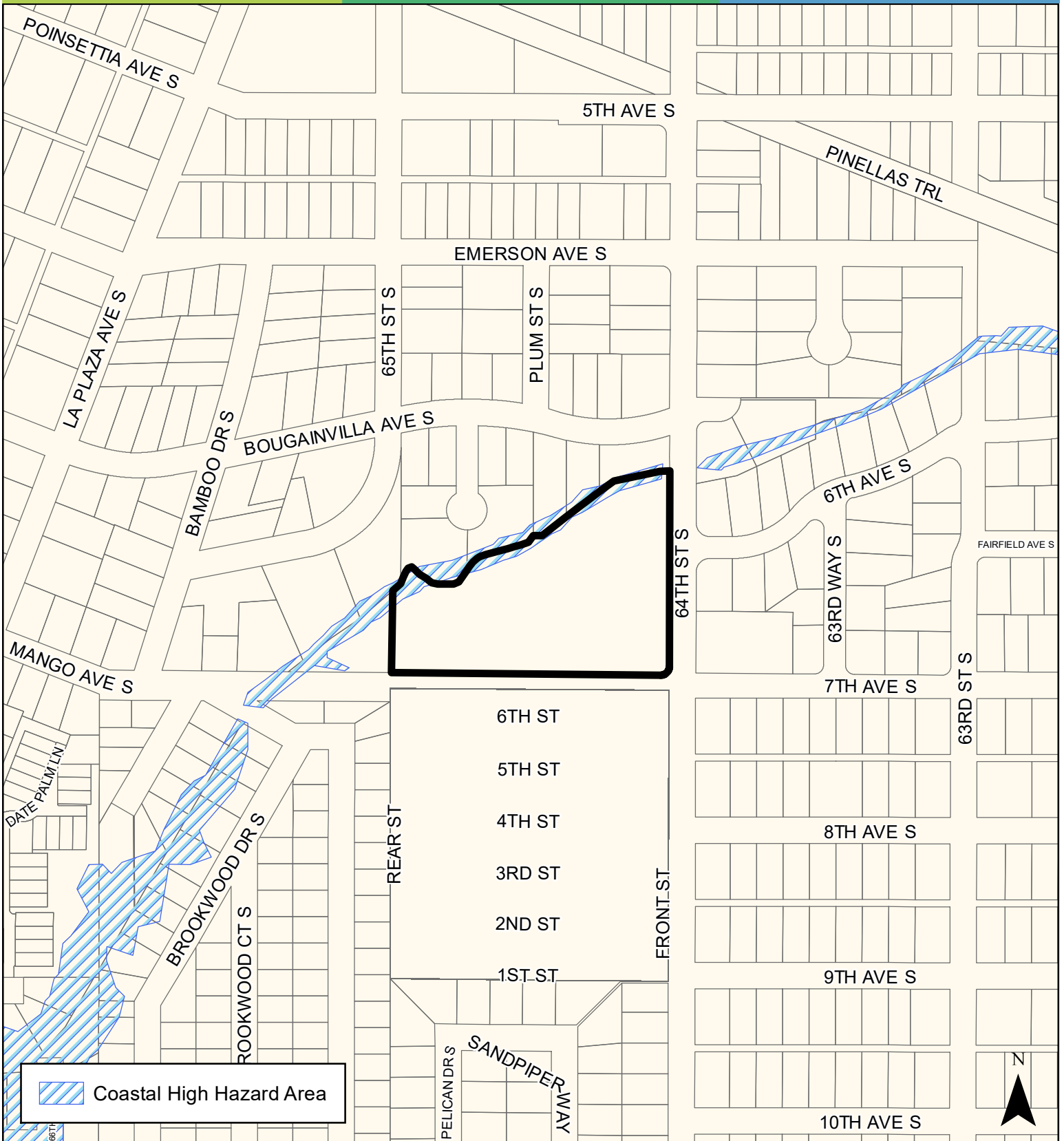
|                                     |  |                     |
|-------------------------------------|--|---------------------|
| <b>JURISDICTION:</b> St. Petersburg | <b>FROM:</b> Public/Semi-Public and Residential Low Medium | <b>Feet</b>         |
| <b>AREA:</b> 4.37 Acres             | <b>TO:</b> Residential Medium and Residential Low Medium   | 0      250      500 |



|                                     |  |   |
|-------------------------------------|--|---|
| <b>JURISDICTION:</b> St. Petersburg | <b>FROM:</b> Public/Semi-Public and Residential Low Medium |  |
| <b>AREA:</b> 4.37 Acres             | <b>TO:</b> Residential Medium and Residential Low Medium   |   |

# Case CW20-16

## Map 6: Coastal High Hazard Area

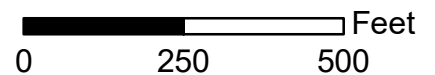


**JURISDICTION:** St. Petersburg

**AREA:** 4.37 Acres

**FROM:** Public/Semi-Public and Residential Low Medium

**TO:** Residential Medium and Public/Semi-Public



**CW 20-16**  
**Forward Pinellas Staff Analysis**

**RELEVANT COUNTYWIDE CONSIDERATIONS:**

- 1) **Consistency with the Countywide Rules** – The proposed amendment is submitted by the City of St. Petersburg and seeks to amend the designation of approximately 4.37 acres of property from Public/Semi-Public and Residential Low Medium to Residential Medium and Residential Low Medium.

The Countywide Rules state that the Residential Medium category is “intended to depict those areas of the county that are now developed, or appropriate to be developed, in a medium-density residential manner; and to recognize such areas as primarily well-suited for residential uses that are consistent with the urban qualities, transportation facilities, including transit, and natural resources of such areas” and the Residential Low Medium category is “intended to depict areas that are now developed, or appropriate to be developed, in a suburban, low density or moderately dense residential manner; and to recognize such areas as primarily well-suited for residential uses that are consistent with the suburban qualities, transportation facilities, including transit, and natural resources of such areas.”

The locational characteristics of the Residential Medium category are “generally appropriate to locations within or in proximity to urban activity centers.” The subject property in question is located in proximity to and south of the 1<sup>st</sup> Avenue South Activity Center. Additionally, locational characteristics of the proposed category are “in areas where use and development characteristics are medium-density residential in nature” and this subject property is also in an area with other properties designated Residential Medium to its north.

The amendment area is located on 64<sup>th</sup> Street South, abutting 7<sup>th</sup> Avenue South, and is currently used as a church. The purpose of the proposed development is to allow for multifamily residential development. As part of the City of St. Petersburg’s StPete2050 visioning initiative, a market assessment was completed to assess projected population growth by land use type and found that St. Petersburg should experience demand for 31,000 to 47,000 units of new housing over the next 30 years, based on growth trends over the past ten years.

Furthermore, a trending combination of decreasing attendance for churches and increasing demand for new residential units has resulted in requests for reducing church site boundaries, creating new infill opportunities for residential development. As such, large consolidated lots commonly associated with churches are helping the community address a growing need for housing, hence the proposed amendment.

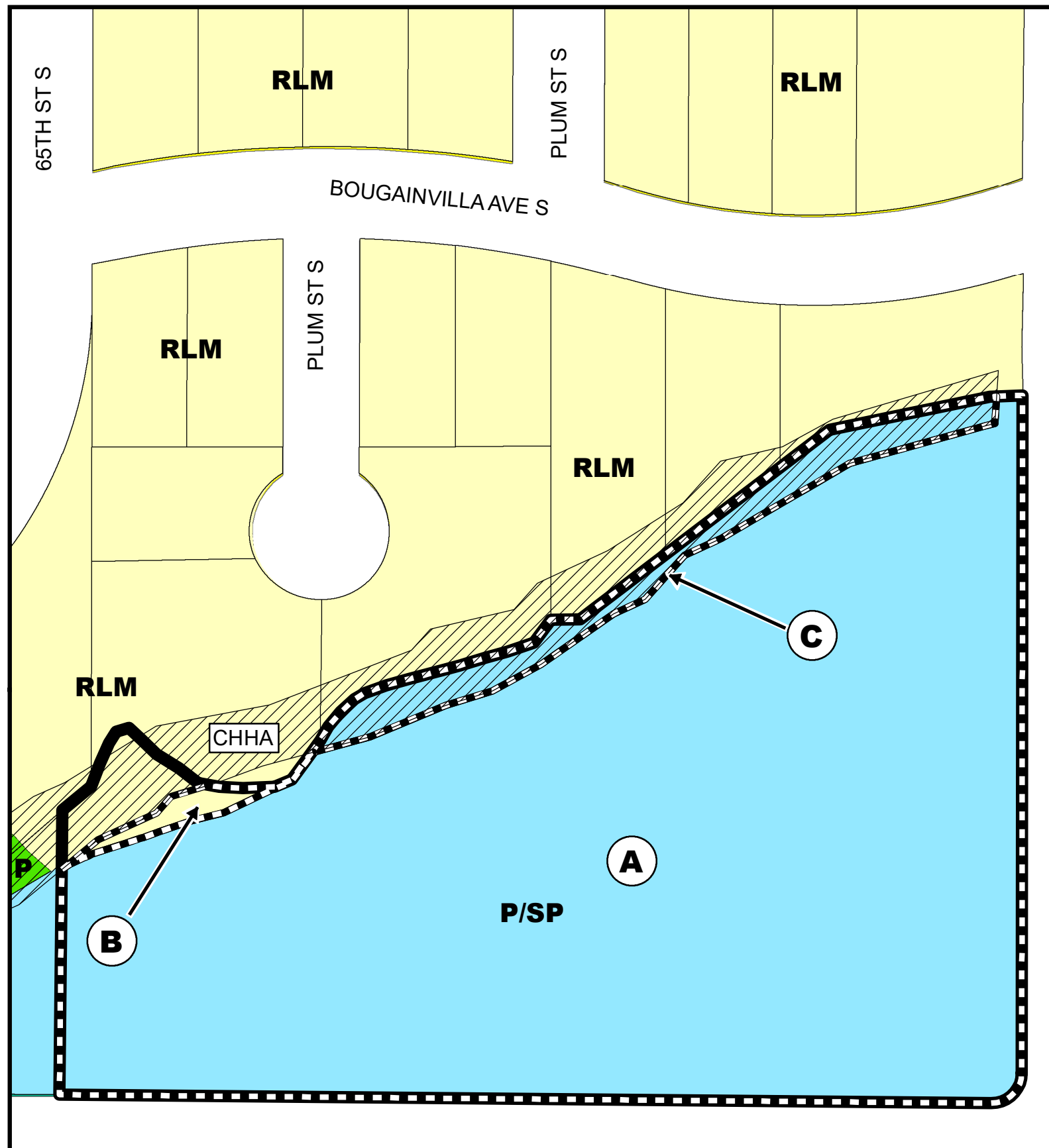
This amendment can be deemed consistent with this Relevant Countywide Consideration.

- 2) **Adopted Roadway Level of Service (LOS) Standard** – The amendment area is located near a roadway segment where the existing Level of Service is operating at a LOS “D” or better; therefore, those policies are not applicable.
- 3) **Location on a Scenic/Noncommercial Corridor (SNCC)** – The amendment area is not located within a SNCC; therefore, those policies are not applicable.
- 4) **Coastal High Hazard Areas (CHHA)** – Approximately 0.22 acres within the northern portion of the amendment area is located in the CHHA. This area follows the boundaries of Bear Creek which is a small water body that flows from Boca Ciega Bay inland through the subject property and terminates just east of Bear Creek Park. This portion of the amendment area is proposed to be amended to Residential Low Medium, which is consistent with the existing properties adjacent to the amendment area also located in the CHHA. This category has a lower maximum residential density and this requested amendment will have no impact on the CHHA.
- 5) **Designated Development/Redevelopment Areas** – The amendment area is not located within a designated development/redevelopment area, so those policies are not applicable.
- 6) **Adjacent to or Impacting an Adjoining Jurisdiction or Public Educational Facility** – The proposed amendment area is not adjacent to a public educational facility; therefore, those policies are not applicable. The proposed amendment is adjacent to the unincorporated Pinellas County. County staff were contacted and found no issues with the amendment. The proposed amendment is also adjacent to the City of Gulfport. City staff were contacted and found no issues with the amendment.
- 7) **Reservation of Industrial Land** – The proposed amendment area does not involve the reduction of land designated as Industrial or Employment; therefore, those policies are not applicable.

**Conclusion:**

On balance, it can be concluded that the proposed amendment is deemed consistent with the Relevant Countywide Considerations found in the Countywide Rules.





**EXISTING COUNTYWIDE PLAN MAP**

CITY FILE

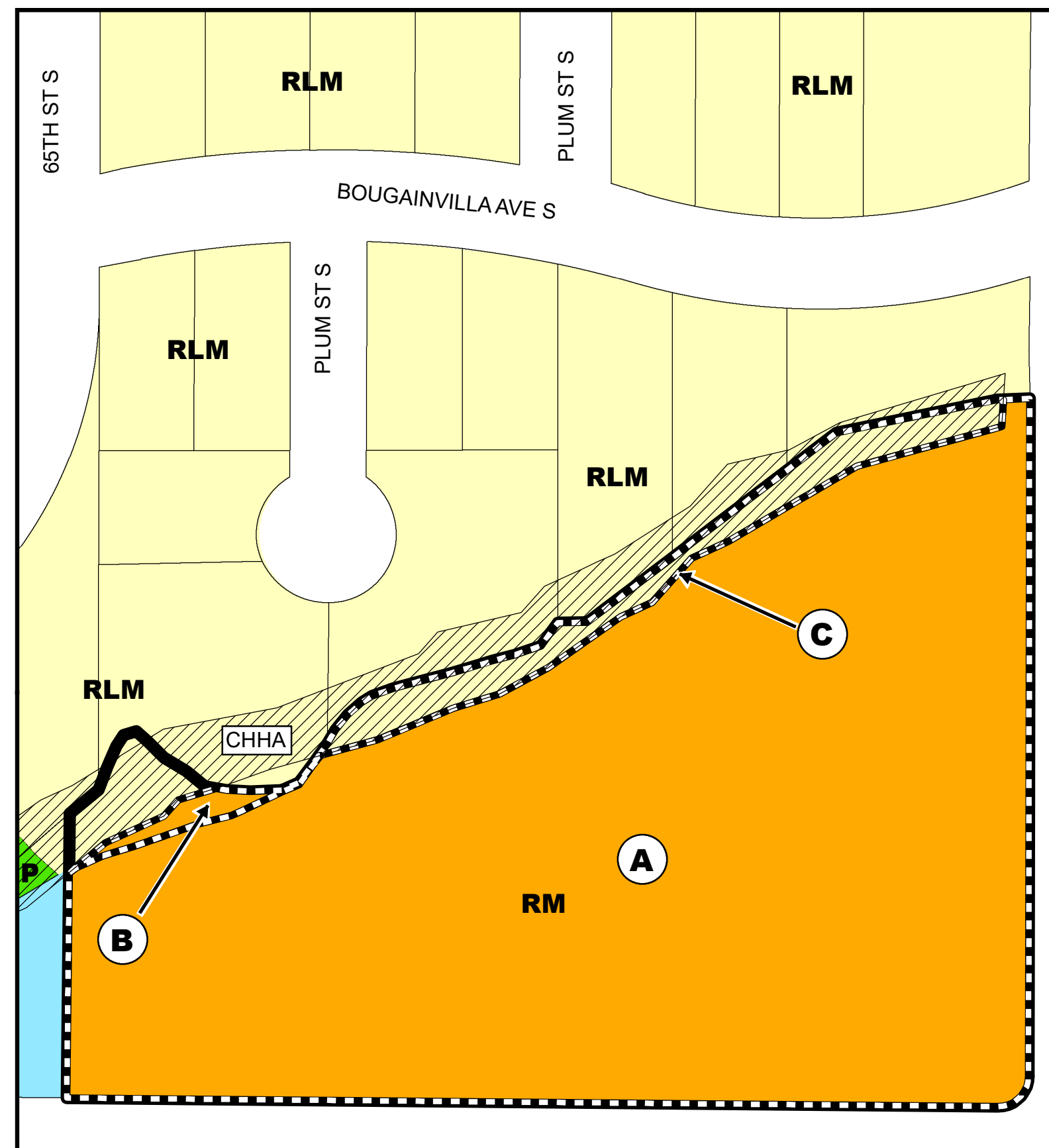
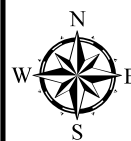
**FLUM-58**

1 inch = 83 feet

- (A)** From: P/SP (Public/Semi-Public) To: RM (Residential Medium)
- (B)** From: RLM (Residential Low Medium) To: RM (Residential Medium)
- (C)** From: P/SP (Public/Semi-Public) To: RLM (Residential Low Medium)



SUBJECT AREA



**PROPOSED COUNTYWIDE PLAN MAP**

CITY FILE

**FLUM-58**

1 inch = 83 feet

- (A)** From: P/SP (Public/Semi-Public) To: RM (Residential Medium)
- (B)** From: RLM (Residential Low Medium) To: RM (Residential Medium)
- (C)** From: P/SP (Public/Semi-Public) To: RLM (Residential Low Medium)



SUBJECT AREA



STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY

PGSP NEIGHBORS UNITED, INC.,

Petitioner,

v.

DOAH CASE NO.: 20-4083GM  
DEO CASE NO.: 21-012

CITY OF ST. PETERSBURG, FLORIDA

Respondent.

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**FINAL ORDER**

This matter was considered by the Division of Community Development within the Florida Department of Economic Opportunity (“Department”) following the receipt of a recommended order (“Recommended Order”) issued by an Administrative Law Judge (“ALJ”) assigned to the matter by the Division of Administrative Hearings (“DOAH”).

**Background**

This is a proceeding to determine whether a small-scale amendment (the “Plan Amendment”) to the City of St. Petersburg’s Comprehensive Plan (“Plan”) is “in compliance,” as defined in section 163.3184(1)(b), Florida Statutes (2020).<sup>1</sup> The Plan Amendment, adopted by Ordinance 739-L on August 13, 2020, amends the Plan by changing the future land use map (“FLUM”) designation of the subject property located at 635 64<sup>th</sup> Street South, St. Petersburg,

<sup>1</sup> References to the *Florida Statutes* are to the 2020 version, which was in effect on the date the Ordinance was adopted.

Florida. The Plan Amendment changes the future land use categories as follows: approximately 4.33 acres from “institutional” to “residential medium;” approximately 0.21 acres from “institutional” to “residential urban,” and approximately 0.04 acres from “residential urban” to “residential medium.”

On September 14, 2020, PGSP Neighbors United, Inc. (“Petitioner”), filed a petition for an administrative hearing, challenging whether the Plan Amendment is “in compliance,” as defined in section 163.3184(1)(b), Florida Statutes. Petitioner alleges that the Plan Amendment is internally inconsistent with the City’s Comprehensive Plan, in violation of section 163.3177(2), Florida Statutes, and is unsupported by relevant and appropriate data, as required by section 163.3177(1)(f), Florida Statutes.

The case was scheduled and held for final hearing on November 17 and 18, 2020. The ALJ issued the Recommended Order on March 3, 2021, recommending the Department issue a final order determining the Plan Amendment to be found in compliance. A copy of the Recommended Order is attached hereto as Exhibit “A.” On March 18, 2021, the Petitioner timely filed exceptions to the Recommended Order.

**Role of the Department**

Petitioner filed its challenge pursuant to sections 120.569, 120.57(1), and 163.3187, Florida Statutes. The ALJ held a hearing and issued the Recommended Order, recommending that the Department find the Plan Amendment in compliance. The Department may determine that the Plan Amendment is in compliance and enter a final order to that effect or determine that the Plan Amendment is not in compliance and refer the Recommended Order and the Department’s

determination to the Administration Commission for final agency action. § 163.3187(5)(b), Fla. Stat.

The Department received a record consisting of copies of the parties' pleadings, the documentary evidence introduced at the final hearing, and a two-volume transcript of the proceedings of the final hearing. The Department has reviewed the record and issues this Final Order in accordance with sections 120.57(1)(k)-(l) and 163.3187, Florida Statutes.

If the Department rejects or modifies a conclusion of law or interpretation of an administrative rule, then the Department must state with particularity its reasons for such rejection or modification. § 120.57(1)(l), Fla. Stat. If the Department rejects or modifies a finding of fact, then the Department must state with particularity that the finding was not based upon competent substantial evidence or that the proceedings on which the finding was based did not comply with essential requirements of law. *Id.*

Pursuant to section 120.57(1)(k), Florida Statutes, the Department must issue an explicit ruling on each exception. The Department is not required to rule on an exception that does not clearly identify the disputed portion of the Recommended Order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record. § 120.57(1)(k), Fla. Stat.

### **Standard of Review**

#### **Findings of Fact**

Section 120.57(1)(l), Florida Statutes, prescribes that in its issuance of a final order, the Department may not reject or modify the findings of fact of the ALJ "unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on

which the findings were based did not comply with essential requirements of law.” Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc. v. Unemplmt. App. Comm'n*, 671 So. 2d 287, 290 n.3 (Fla. 5th DCA 1996). Evidence is substantial if there is “some (more than a mere iota or scintilla) real, material, pertinent, and relevant evidence (as distinguished from ethereal, metaphysical, speculative or merely theoretical evidence or hypothetical possibilities) having definite probative value (that is, ‘tending to prove’) as to each essential element” of the claim. *Id.* The Department is “not authorized to weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.” *Heifetz v. Dep't of Bus. Reg.*, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). “If the ALJ's findings of fact are supported by competent, substantial evidence, the agency cannot reject them even to make alternate findings that are also supported by competent, substantial evidence.” *Lantz v. Smith*, 106 So. 3d 518, 521 (Fla. 1st DCA 2013). The Department may reject findings of fact if the proceedings on which the findings were based did not comply with the essential requirements of law. *See* § 120.57(1)(l), Fla. Stat., and *Dept. of Corrections v. Bradley*, 510 So. 2d 1122, 1123 (Fla. 1st DCA 1987). In this context, Florida’s First District Court of Appeal has characterized a failure “to comply with the essential requirements of the law” as “a procedural irregularity.” *Beckett v. Dep't of Fin. Servs.*, 982 So. 2d 94, 102 (Fla. 1st DCA 2008) (ruling that the agency erred by concluding that the ALJ had failed to comply with the essential requirements of the law “[b]ecause there has been no suggestion of a procedural irregularity”).

#### Conclusions of Law

Section 120.57(1)(l), Florida Statutes, authorizes the Department to reject or modify a conclusion of law over which the agency has substantive jurisdiction. § 120.57(1)(l), Fla. Stat.; *Barfield v. Dep't of Health*, 805 So. 2d 1008, 1010 (Fla. 1st DCA 2001). If the Department rejects

or modifies any of the ALJ's conclusions of law, then the Department must state with particularity its reasons for rejecting or modifying the conclusion, and must make a finding that its substituted conclusion of law is as or more reasonable than that which was rejected or modified. § 120.57(1)(l), Fla. Stat. The Department is not permitted to reject or modify a finding that is substantially one of fact simply by treating the finding as a legal conclusion. *See Abrams v. Seminole Cnty. Sch. Bd.*, 73 So. 3d 285, 294 (Fla. 5th DCA 2011). Additionally, a rejection or modification of a conclusion of law may not form a basis for rejection or modification of a finding of fact. § 120.57(1)(l), Fla. Stat.

**Rulings on Petitioner's Exceptions to Recommended Order**

**(A) Exception 1: Paragraphs 19-21 and 24-27**

In Exception 1, Petitioner takes exception to findings of facts and conclusion of law contained in paragraphs 19-21 and 24-27 of the Recommended Order. Petitioner alleges the Recommended Order misinterprets the law, and as a result, erroneously determined the Plan Amendment is internally consistent with the Plan. Petitioner's Exception 1 argues the Recommended Order improperly relies on an LDR rather than the Comprehensive Plan to determine the allowable density on the subject property.

The Department finds there is competent substantial evidence in the record to support the ALJ's findings of facts relating to the allowable density on the subject property. Additionally, the ALJ's findings of fact that the Plan Amendment is consistent with the existing provisions of the Plan is supported by competent substantial evidence. Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc.*, 671 So. 2d at 290 n.3. Evidence is substantial if there is "some (more than a mere iota or scintilla), real, material, pertinent, and relevant evidence . . . having definite probative value (that is, 'tending to prove') as

to each essential element” of the claim. *Id.* It is not the place of the Department to “weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.” *Heifetz*, 475 So. 2d at 1281. Therefore, so long as competent substantial evidence supports the ALJ’s findings of fact, the agency may not reject them to make alternative findings supported by evidence. *Lantz*, 16 So. 3d at 521. The Department finds competent substantial evidence supports the ALJ’s findings of fact in paragraphs 19-21 and 24-27 of the Recommended Order.

To the extent Petitioner’s exception argues the referenced paragraphs are incorrect legal conclusions, the Department has considered Exception 1 and cannot substitute a legal conclusion as reasonable as or more reasonable than that reached by the ALJ in paragraphs 19-21 and 24-27 of the Recommended Order. The findings of fact in the Recommended Order support the conclusion of law that the Petitioner failed to prove beyond fair debate that the Plan Amendment is internally inconsistent with the Plan.

Exception 1 is DENIED.

**(B) Exception 2: Paragraphs 86-89**

In Exception 2, Petitioner takes exception to findings of facts and conclusion of law contained in paragraphs 86-89 of the Recommended Order. Petitioner alleges the Recommended Order misinterprets the law and erroneously concludes the City relied upon professionally accepted data and analysis relating to the allowable density on the subject property. The Department finds there is competent substantial evidence in the record to support the ALJ’s determination that the Plan Amendment is supported by relevant data and analysis. Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc.*, 671 So. 2d at 290 n.3. Evidence is substantial if there is “some (more than a mere iota or

scintilla), real, material, pertinent, and relevant evidence . . . having definite probative value (that is, ‘tending to prove’) as to each essential element” of the claim. *Id.* The City’s witness testified to the data and analysis relied upon in consideration of the Plan Amendment. The ALJ weighed the testimony presented by both parties and determined the more credible evidence supported finding the City relied on appropriate data and analysis. It is not the place of the Department to “weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.” *Heifetz*, 475 So. 2d at 1281. Therefore, so long as competent substantial evidence supports the ALJ’s findings of fact, the Department may not reject them to make alternative findings supported by evidence. *Lantz*, 16 So. 3d at 521. The Department finds competent substantial evidence supports the ALJ’s findings of fact in paragraphs 86-89.

To the extent the Petitioner’s exception argues the referenced paragraphs are incorrect legal conclusions, the Department has considered Exception 2 and cannot substitute a legal conclusion as reasonable as or more reasonable than that reached by the ALJ. The findings of fact in the Recommended Order support the conclusion that the Petitioner did not prove beyond fair debate that the City failed to rely upon professionally accepted data and analysis.

Exception 2 is DENIED.

**(C) Exception 3: Paragraphs 38, 41, 45, 62-64, 81, 90, and 92**

In Exception 3, Petitioner takes exception to findings of fact and conclusions of law contained in paragraphs 38, 41, 45, 62-64, 81, 90, and 92 of the Recommended Order. Petitioner alleges the Recommended Order misinterprets the law and, as a result, erroneously concludes the Plan Amendment is not internally inconsistent with Plan Policy LU 3.4.

The Department finds there is competent substantial evidence in the record to support the ALJ’s findings of facts relating to the Plan Amendment’s consistency with Policy LU 3.4. (E.g.,



trans. pgs. 79-81, 135-136, 178-208 Nov. 17, 2020). Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc.*, 671 So. 2d at 290 n.3. Evidence is substantial if there is “some (more than a mere iota or scintilla), real, material, pertinent, and relevant evidence . . . having definite probative value (that is, ‘tending to prove’) as to each essential element” of the claim. *Id.* The City’s witness testified to the Plan Amendment’s consistency with Comprehensive Plan Policy LU 3.4. (E.g., trans. pgs. 178-208 Nov. 17, 2020). The ALJ weighed the testimony of the City’s witnesses with the Petitioner’s witness and determined the more credible evidence supported finding the Plan Amendment is consistent with the Plan. It is not the place of the Department to “weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.” *Heifetz*, 475 So. 2d at 1281. Therefore, so long as competent substantial evidence supports the ALJ’s findings of fact, the Department may not reject them to make alternative findings supported by evidence. *Lantz*, 16 So. 3d at 521. The Department finds competent substantial evidence supports the ALJ’s findings of fact in paragraphs 38, 41, 45, 62-64, 81, 90, and 92.

To the extent the Petitioner’s exception argues the referenced paragraphs are incorrect legal conclusions, the Department has considered Exception 3 and cannot substitute a legal conclusion as reasonable as or more reasonable than that reached by the ALJ. The findings of fact in the Recommended Order support the conclusion that the Petitioner did not prove beyond fair debate that the Plan Amendment is internally inconsistent with the Plan.

Exception 3 is DENIED.

**(D) Exception 4: Paragraphs 40-42 and 44**

In Exception 4, Petitioner takes exception to findings of facts and conclusion of law contained in paragraphs 40-42 and 44 of the Recommended Order. Specifically, the Petitioner

alleges the ALJ failed to make a finding relating to a “limited variation in net density” in determining the Plan Amendment’s consistency with Policy LU 3.4.

The Department finds there is competent substantial evidence in the record to support the ALJ made necessary findings of fact in determining the consistency of the Plan Amendment and Policy LU 3.4. Both the Petitioner and the City presented witnesses who testified to the Plan Amendment’s consistency with Comprehensive Plan Policy LU 3.4. (E.g., trans. pgs. 79-81, 135-136, 178-208 Nov. 17, 2020). The ALJ weighed these testimonies and determined the more credible evidence supported a finding of consistency between the Plan Amendment and Policy LU 3.4.

Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc.*, 671 So. 2d at 290 n.3. Evidence is substantial if there is “some (more than a mere iota or scintilla), real, material, pertinent, and relevant evidence . . . having definite probative value (that is, ‘tending to prove’) as to each essential element” of the claim. *Id.* It is not the place of the Department to “weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.” *Heifetz*, 475 So. 2d at 1281. Therefore, so long as competent substantial evidence supports the ALJ’s findings of fact, the Department may not reject them to make alternative findings supported by evidence. *Lantz*, 16 So. 3d at 521. The Department finds competent substantial evidence supports the ALJ’s findings of fact in paragraphs 40-42 and 44.

To the extent the Petitioner’s exception argues the referenced paragraphs are incorrect legal conclusions, the Department has considered Exception 4 and cannot substitute a legal conclusion as reasonable as or more reasonable than that reached by the ALJ. The findings of fact in the Recommended Order support the conclusion that the Petitioner did not prove beyond fair debate

that the Plan Amendment is inconsistent with Policy LU 3.4.

Exception 4 is DENIED.

**(E) Exception 5: Paragraphs 55 and 56**

In Exception 5, Petitioner takes exception to findings of facts contained in, and conclusions of law derived from, paragraphs 55 and 56 of the Recommended Order relating to how Petitioner's witness, Charles Gauthier, calculated the allowable density for the subject property. Petitioner argues the ALJ mischaracterized the amount of information Gauthier reviewed in formulating his opinion, and as a result, may have erroneously concluded the City relied on appropriate data and analysis. The Department finds there is competent substantial evidence in the record to support the ALJ's findings of facts related to witness testimony (E.g., trans. pg. 131, Nov. 17, 2020).

Evidence is competent if it is admissible under the pertinent legal rules of evidence. *Scholastic Book Fairs, Inc.*, 671 So. 2d at 290 n.3. Evidence is substantial if there is "some (more than a mere iota or scintilla), real, material, pertinent, and relevant evidence . . . having definite probative value (that is, 'tending to prove') as to each essential element" of the claim. *Id.* The record reflects the ALJ accepted and considered the testimony of Charles Gauthier as an expert witness for Petitioners. (E.g., trans. pgs. 48–152, Nov. 17, 2020). The record also reflects the ALJ weighed the testimony of each witness presented by the Petitioner and the City, and determined the more credible evidence supported a finding that the Plan Amendment was supported by relevant and appropriate data. It is not the place of the Department to "weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion." *Heifetz*, 475 So. 2d at 1281. Therefore, so long as competent substantial evidence supports the ALJ's findings of fact, the Department may not reject them to make alternative findings supported by evidence. *Lantz*, 16 So. 3d at 521. The Department finds

competent substantial evidence supports the ALJ's findings of fact in paragraphs 55 and 56.

To the extent the Petitioner's exception argues the referenced paragraphs are incorrect legal conclusions, the Department has considered Exception 5 and cannot substitute a legal conclusion as reasonable as or more reasonable than that reached by the ALJ. The findings of fact in the Recommended Order support the conclusion that the Petitioner did not prove beyond fair debate that the City failed to rely upon professionally accepted data and analysis.

Exception 5 is DENIED.

**Adoption of the Recommended Order**


The Department has reviewed the Recommended Order and concludes that all findings of fact therein were based upon competent substantial evidence in the record. The Department finds that the proceedings on which the findings of fact were based complied with the essential requirements of law.

The Department has reviewed the ALJ's conclusions of law and finds that all conclusions of law within the Department's substantive jurisdiction are reasonable. The Department does not have any substitute conclusions of law that would be as or more reasonable than the ALJ's conclusions of law.

**ORDER**

Based on the foregoing, the Department determines that City of St. Petersburg Comprehensive Plan Amendment, adopted by Ordinance 739-L on August 13, 2020, is "in compliance," as defined in section 163.3184(1)(b), Florida Statutes. The Department adopts and incorporates the Recommended Order in its entirety in this Final Order.

Dated this 1 day of April, 2021.



Mario Rubio, Director  
Division of Community Development  
Florida Department of Economic Opportunity

**NOTICE OF RIGHT TO APPEAL**

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION UNDER CHAPTER 120, FLORIDA STATUTES. A PARTY WHO IS ADVERSELY AFFECTED BY FINAL AGENCY ACTION IS ENTITLED TO JUDICIAL REVIEW IN ACCORDANCE WITH SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(B)(1)(C) AND 9.110.

TO INITIATE JUDICIAL REVIEW OF THIS FINAL AGENCY ACTION, A NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL WITHIN THIRTY (30) CALENDAR DAYS AFTER THE DATE THE FINAL AGENCY ACTION WAS FILED BY THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22, FLORIDA STATUTES. A COPY OF THE NOTICE OF APPEAL MUST ALSO BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 107 EAST MADISON STREET, CALDWELL BUILDING, MSC 110, TALLAHASSEE, FLORIDA 32399-4128, AGENCY.CLERK@DEO.MYFLORIDA.COM. A DOCUMENT IS FILED WHEN IT IS RECEIVED. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(A).

AN ADVERSELY AFFECTED PARTY WAIVES THE RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH BOTH THE DEPARTMENT'S AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 10<sup>th</sup> day of April, 2021.



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Agency Clerk  
Florida Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

**By U.S. Mail**

The Honorable Hetal Desai  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

**By U.S. Mail:**

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**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

PGSP NEIGHBORS UNITED, INC.,

Petitioner,

vs.

Case No. 20-4083GM

CITY OF ST. PETERSBURG, FLORIDA,

Respondent.

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RECOMMENDED ORDER

Administrative Law Judge Hetal Desai of the Division of Administrative Hearings (DOAH) conducted a disputed-fact evidentiary hearing on November 17 and 18, 2020, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Shai Ozery, Esquire  
Robert N. Hartsell, Esquire  
Robert N. Hartsell, P.A.  
61 Northeast 1st Street, Suite C  
Pompano Beach, Florida 33060

For Respondent: Heather Judd, Esquire  
Michael J. Dema, Esquire  
City of St. Petersburg  
Post Office Box 2842  
St. Petersburg, Florida 33731

STATEMENT OF THE ISSUE

Whether the small-scale amendment to the Future Land Use Map (FLUM) of the City of St. Petersburg's (the City) Comprehensive Plan (Comprehensive Plan), adopted by Ordinance 739-L (Ordinance) on

EXHIBIT "A"



August 13, 2020, is "in compliance" as that term is defined in section 163.3184(1)(b), Florida Statutes (2020).<sup>1</sup>

#### PRELIMINARY STATEMENT

On February 11, 2020, the City of St. Petersburg Community Planning and Preservation Commission (Planning Commission) voted to deny an application by Grace Connection of Tampa Bay, Inc., seeking to amend the FLUM of the Comprehensive Plan, changing the designation of a parcel located at 635 64th Street South, St. Petersburg, Pinellas County, Florida. On February 21, 2020, the applicant appealed the Planning Commission's decision to the City of St. Petersburg Council (City Council), pursuant to section 16.70.040.D.1.b.(2) of the City's Code ("A denial of an application is final except in the case of an application initiated by the City Council unless an appeal is taken to the City Council."). On August 13, 2020, the City Council granted the appeal and adopted the Ordinance. In doing so, it overturned the Planning Commission's denial of the application and adopted the amendment to the FLUM (Amendment) as a small-scale amendment pursuant to section 163.3187(2).

On September 14, 2020, Petitioner, PGSP Neighbors United, Inc. (Petitioner or PGSP), timely filed a Petition for Administrative Hearing (Petition) with DOAH pursuant to section 163.3187, challenging the Ordinance. In the Petition, PGSP alleges the City failed to adhere to its own policies requiring it to (1) direct population concentrations away from known or predicted Coastal High Hazard Areas; (2) provide compatible land use transitions; (3) protect the established compatibility of the character of surrounding areas; and (4) protect existing residential uses from

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<sup>1</sup> Except as otherwise noted, all references to Florida Statutes are to the 2020 version, in effect when the Plan Amendment was adopted. All references to the Comprehensive Plan are to the November 2019 version admitted into evidence as Exhibit P-25.

incompatible uses. The Petition also alleges the Plan Amendment was not based upon surveys, studies, and professionally accepted data and analysis.

The matter was assigned to the undersigned and set for a final disputed fact hearing. The parties filed a Joint Pre-Hearing Stipulation on November 12, 2020, and participated in a pre-hearing conference on November 13, 2020, via Zoom. The facts and law stipulated to in the Joint Stipulation and confirmed at the pre-hearing conference have been incorporated in this Recommended Order as appropriate.

At the final hearing, PGSP presented the testimony of Charles Gauthier, who was accepted as an expert in planning; and Dan Porter, who was accepted as an expert in local real estate. PGSP's Exhibits P-1 through P-23 were admitted into evidence. The City presented the testimony of three employees: Derek Kilborn, manager of the Urban Planning and Historic Preservation Division in the City's Planning and Development Services Department (Planning Department); Elizabeth Abernethy, Director of the Planning Department; and Thomas Whalen, a Planner III. Mr. Kilborn and Ms. Abernethy were accepted as experts in land use planning and development, comprehensive planning, and zoning. Mr. Whalen was accepted as an expert in transportation planning. The City's Exhibits R-A through R-W were admitted into evidence.

The transcript of the final hearing was filed with DOAH on December 16, 2020. The parties requested and were granted additional time for filing proposed recommended orders (PROs).<sup>2</sup> Both parties timely filed PROs on

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<sup>2</sup> By agreeing to an extended deadline of more than ten days after the filing of the transcript for filing PROs, the parties waived the 30-day time period for issuing the Recommended Order. *See Fla. Admin. Code R. 28-106.216.*

February 1, 2021, which have been duly considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

##### The Parties and Property

1. Petitioner, PGSP, is a membership organization, with 118 members. It is registered with the State of Florida as a not-for-profit corporation located in St. Petersburg, Florida. PGSP's stated mission is to promote healthy urban development throughout St. Petersburg; it was formed to promote development and growth compatible with surrounding neighborhoods. It works with the City and residents to ensure new development is cohesive with existing and planned environmental and infrastructural demands.

2. Respondent, City of St. Petersburg, is a political subdivision of the State of Florida that is subject to the requirements of chapter 163, Part II, Florida Statutes.

3. The subject property is located at 635 64th Street South, St. Petersburg, Pinellas County, Florida (Property). It is owned by Grace Connection of Tampa Bay, Inc., operating as Grace Connection Church (Church). The Church was the applicant for the Amendment at issue but is not a party to this action.

4. The Property is triangular in shape with a total of 4.66 acres. To the north and west, the Property is bounded by Bear Creek, a natural water feature. To the east, the Property is bounded by 64th Street South, a "Collector, City Road." To the south, the Property is bounded by an undeveloped 40-foot right-of-way.

5. A portion of the Property that abuts Bear Creek is located in a Coastal High Hazard Area (CHHA).<sup>3</sup> Respondent has not sought changes to the portion of the Property that is within the CHHA.

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<sup>3</sup> The Property is also within the projected storm surge in Hurricane Evacuation Level "D," which is a Pinellas County emergency management designation, and not a part of the City's Comprehensive Plan.

6. The Property is currently categorized for Neighborhood Suburban (NS-1) zoning (which is separate from its Future Land Use Category).

7. A substantial number of PGSP members live within the City, in close proximity to the Property and allege they will be adversely affected by the concomitant impacts of increased densities in the community as addressed in these proceedings.

The Ordinance

8. The Church's application sought to amend the FLUM of the Comprehensive Plan. The application divided the non-portion of the CHHA into three portions and sought to make the following changes to the Future Land Use categories:

A PORTION OF THE SUBJECT PROPERTY (APPROX. 4.33 ACRES), FROM I (INSTITUTIONAL) TO RM (RESIDENTIAL MEDIUM); A PORTION OF THE SUBJECT PROPERTY (APPROX. 0.21 ACRES), FROM I (INSTITUTIONAL) TO RU (RESIDENTIAL URBAN); AND A PORTION OF THE SUBJECT PROPERTY (APPROX. 0.04 ACRES), FROM RU (RESIDENTIAL URBAN) TO RESIDENTIAL MEDIUM (RM).

9. On August 13, 2020, the City Council had a public hearing on the Church's appeal of the denial of its application by the Planning Commission. At this hearing, PGSP members submitted oral or written comments, recommendations, or objections to the City.

10. At the August 13 meeting, the City Council adopted the Ordinance. This had the effect of adopting the Amendment and changing the Future Land Use categories to the Property.

11. The Ordinance instituted a small-scale amendment to the FLUM, as defined by section 163.3187(2).

### Maximum Density

12. Petitioner argues the Ordinance is not "in compliance," as defined in sections 163.3184(1)(b) and 163.3187(4). Specifically, PGSP attacks the Amendment because it does not (1) direct "population concentrations" away from areas designated as a CCHA; (2) provide for compatible land use transitions; and (3) preserve the existing character of the surrounding areas. Each of these claims are either partially or wholly dependent on the increased maximum density for the Property after the Amendment. As such, the threshold issue of density must be addressed.

13. This dispute involves the 4.37 acre that are changed from the Residential Urban (RU) and Institutional land use categories to Residential Medium (RM) made up of approximately 4.33 acres from Institutional to RM and approximately 0.04 acres from RU to RM.

14. The "Institutional" designation allows a density of 12 dwelling units per acre but limits residential use as an accessory to the primary institutional use, which in this case is a church.<sup>4</sup> The Church submitted the application for the FLUM amendment because it ultimately seeks to sell the Property for multi-family housing development, which would not be a proper use in an area designated "Institutional."

15. The Future Land Use categories for the area to the north and east of the Property are RU, which have a density of 7.5 units per acre. *See* Comprehensive Plan Policy LU 3.1A.2. This area is primarily made up of single-family homes.

16. The southern boundary of the property is also the municipal border between St. Petersburg and an unincorporated portion of Pinellas County. This area is governed by the Pinellas County FLUM and Pinellas County Comprehensive Plan. The adjacent property to the south is a mobile home park development which has a residential density of 20.4 units per acre.

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<sup>4</sup> Pursuant to section 16.10.020.2 of the City's Code, Institutional uses include, "government buildings and grounds, and cemeteries, hospitals, houses of worship and schools."

17. In between the RU and RM categories is a category labeled "Residential Low Medium" (RLM). The RLM category allows low to moderately intensive residential development with a density not to exceed ten dwelling units per acre. *See Comprehensive Plan Policy LU 3.1A.3.*

18. As stated above, the Ordinance would categorize the portion of the Property at issue as RM. The RM category allows medium density residential development and has a maximum density of 15 dwelling units per acre, with a possible maximum density of 30 dwelling units per acre with the qualification of a density bonus. *See Comprehensive Plan Policy LU 3.1A.4.*

19. PGSP argues the density of the areas designated as RM by the Ordinance will have a maximum possible density of 30 dwelling units per acre. The City argues the maximum density is calculated using the actual density that can be built in the RM areas. As explained below, the practical allowable density of 15 dwelling units per acre with a Workforce Housing Bonus of six, or 21 dwelling units per acre.

20. Petitioner relies on a "Missing Middle Housing" density bonus allowable in Neighborhood Traditional Mixed Residential (NTM) zoning category. This bonus allows up to 30 units per acre as an incentive to develop housing that is lacking in the area.

21. While NTM is an available zoning category for RM, the Plan specifically states that 30 dwelling units per acre is only "permitted in accordance with the Land Development Regulations [LDRs]." Per the LDRs, the NTM designation could not be placed over this parcel because the designation is used as a transitional zoning category in St. Petersburg's traditional neighborhoods.

22. While PGSP's planning expert considered the neighborhood surrounding the Property to be traditional, he admitted his opinion was not based on standards in the Comprehensive Plan or LDR definitions regarding what is considered a traditional or suburban neighborhood.

23. In contrast, Derek Kilborn, a manager in the City's Planning Department, testified about the different characteristics of traditional versus suburban neighborhoods and opined that the neighborhood surrounding the Property is "suburban" according to the terms in the Comprehensive Plan. This determination is bolstered by the existing zoning of the surrounding neighborhood being largely NS-1.

24. The City established it would be impossible for the Property to qualify for the Missing Middle Housing bonus, because the parcel at issue is not in the NTM zoning category. Rather, as explained by Mr. Kilborn's testimony and based on the LDRs and the Comprehensive Code, the RM category only allows a maximum of 15 dwelling units per acre.

25. The Church has not applied to rezone the Property. The Planning Department's director testified, however, that if the Church had applied for a rezoning for the Property to NTM, the maximum number of dwelling units would be less than the numbers asserted by Petitioner due to the requirements for spacing, alleyways, and height restrictions required in NTM zones.

26. The Property is eligible for a Workforce Housing density bonus. This bonus would increase the maximum density by six dwelling units for workforce housing. The City's final density calculation incorporated the Workforce Housing bonus and determined the maximum density for the RM portion of the Property to be 21 dwelling units per acre.

27. PSGP did not prove beyond fair debate that the actual density of 21 units per acre is an erroneous calculation or contrary to the Comprehensive Plan.

Consistency with Objective CM 10B and Policy CM 10.6<sup>5</sup>

28. Comprehensive Plan Objective CM 10B states:

The City shall direct population concentrations away from known or predicted coastal high hazard areas consistent with the goals, objectives and policies of the Future Land Use Element.

29. The phrase "Population concentrations" is not defined by the Comprehensive Plan.

30. The only policy referring to "directing" related to Objective CM 10B is Policy CM 10.6, which states:

The City shall direct population concentrations away from known or predicted coastal high hazard areas by not locating water line extensions in the coastal high hazard area, beyond that which is necessary to service planned zoning densities as identified on the Future Land Use Map.

31. The remaining policies related to this Objective involve the placement of transportation and infrastructure, expenditures for flood control, and the operation of roads in a CHHA; none of these issues were raised in these proceedings. In fact, other than the reference to placement of water line extensions in Policy CM 10.6, there is no provision establishing standards for what would constitute direction away from a CHHA.

32. The only area on the Property designated a CHHA is near Bear Creek.<sup>6</sup> The Ordinance does not increase density in any part of the CHHA portion of the Property.

33. PGSP's planning expert, Charles Gauthier, equated a population concentration as an area with high density. He argued the Ordinance

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<sup>5</sup> "CM" means Coastal Management in the Comprehensive Plan.

<sup>6</sup> Mr. Kilborn testified that in reviewing the property for compliance with the Plan related to CHHA, there was no study or analysis provided to the City by Petitioner or others showing flooding or hazard impacts for the non-CHHA portion of the Property.



violated Policy 10.6 because it increased the density of the area on the Property adjacent to the CHHA. At one point, Mr. Gauthier seemed to say this policy encourages higher density future land use categories only in the "central core or spine of the City." Mr. Gauthier maintained the increase in density on the non-CHHA portion of the Property frustrated this policy because only land in the central part of St. Petersburg should experience density increases. PGSP's reasoning would imply any increase in density near any CHHA and not near the "central core" would violate Policy CM 10.6.

34. Elizabeth Abernethy, Director of the Planning Department, testified that "population concentrations" as contemplated by the Comprehensive Plan are not simply increases in density. Rather, the City core had a concentration of high-density categories yielding approximate 80 to 120 dwelling units per acre; she would not characterize 15 or even 30 units per acre as a "high density" much less a "population concentration." Although she concurred that there are "population concentrations" in St. Petersburg centered in its urban core, she disagreed with Petitioner's expert that increased density on the Property created a "population concentration" near the CHHA or Bear Creek area.

35. There was no competent evidence as to where any water line extensions would be located if the Property's Future Land Use Category were to change from RU and Industrial to RM.

36. The City's interpretation of "population concentration" as used in CM 10.6 is reasonable, and therefore, the City's determination that the Ordinance is in compliance with CM 10.6 is fairly debatable.

Consistency with LU 3.4<sup>7</sup>

37. Comprehensive Plan Policy LU 3.4 states:

The Land Use Plan shall provide for compatible land use transition through an orderly land use arrangement, proper buffering, and the use of physical and natural separators.

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<sup>7</sup> "LU" refers to Future Land Use Element in the Comprehensive Plan.

38. Petitioner focuses on compatible land use transition as only a function of density. PGSP argues a parcel categorized as RM (15 unit density) cannot abut an RU (7.5 unit density) categorized parcel because it violates Policy LU 3.4. Rather, it argues the RLM (10 unit density) category should have been used instead. It claims the City "leap-frogged" categories instead of using a "one step" up or down approach.

39. PGSP's expert admits that a direct step down between plan categories is not explicitly required under the Comprehensive Plan language but argues other language related to "limited variation" required the single step.

40. The plain language of Policy LU 3.4, however, simply requires an "orderly land use arrangement." It does not explicitly or implicitly state that the City must use a "step up" approach when determining the appropriate Future Land Use category.

41. Furthermore, PGSP relied on its density calculation of 30 dwelling units per acre to argue that with the surrounding adjacent land density of 7.5 units per acre, there would be a 400% increase in planned residential density. As stated above, the maximum possible density under the Amendment is 21 dwelling units per acre.

42. Moreover, the City points out that the mobile home park to the south of the Property has an actual density of approximately 20 dwelling units per acre. Thus, the transition from 20 to 21 is an orderly land use arrangement as contemplated by Policy LU 3.4.

43. The FLUM also does not reflect a perfect one up or down transition pattern throughout St. Petersburg. Rather, it shows areas categorized RM abutting areas categorized RU and RLM. In fact, there is an area designated RM which abuts RU parcels within 800 feet of the Property.

44. The City presented adequate evidence establishing the change from Institutional to a residential category fits with surrounding residential use. Moreover, it established that natural and physical barriers on the Property,

including creeks and right of ways, provide transition as contemplated by Policy LU 3.4. PGSP does not explain why these barriers are inadequate.

45. Petitioner did not prove beyond fair debate that the Ordinance is inconsistent with Policy LU 3.4.

Consistency with Objective Policy LU 3.6

46. Policy LU 3.6 states:

Land use planning decisions shall weigh heavily the established character of predominately developed areas where changes of use or intensity of development are contemplated.

47. PGSP argues the increase in density as a result of the change in categories from RU to RM is inconsistent with the "character" of the surrounding neighborhood, which is made up of single-family homes. Again, PGSP's argument relies heavily on the density calculation of 30 units per acre. As stated above, this density is only available with a change to the underlying zoning to NTM, which was not sought by the Church in its application. The maximum density applicable to the RM portions of the Property is 21 dwelling units per acre.

48. As stated above, the City established there are other instances of RM abutting RU in the same neighborhood, approximately 800 feet from the Property. Ms. Abernathy testified that, based on the City's historic development pattern, RM is the appropriate transitional category next to RU on a major street (such as 64th Street South) under the Comprehensive Plan.

49. Ms. Abernathy further testified that residential single-family use adjoining either residential multi-family or commercial uses in the City is a "very common development pattern." Therefore, the RM designation is not inconsistent with Policy LU 3.6. Moreover, the RM designation provides for a primary residential use, which the Institutional designation does not.

50. Although PGSP focused solely on density as the grounds for evaluating the "established character of the neighborhood," the City

established that several other considerations go into its analysis related to Policy LU 3.6. Beyond looking at existing and proposed densities of the Future Land Use categories, City staff considers the occurrences and relationships between the uses of the property (i.e., residential versus institutional; or residential versus residential) and the existence of similar patterns in the surrounding neighborhood. In this case, the surrounding areas included other areas designated RM and the mobile home park.

51. Determination of the character of the neighborhood was also based on a study of the existing road network and the potential impacts on traffic due to the Amendment. The street classification of 64th Street South as a Future Major was a key consideration in determining whether the changes in the Property were consistent with the character of the surrounding area because that street is the Property's frontage and only access point.

52. Petitioner did not prove beyond fair debate that the Ordinance is inconsistent with Policy LU 3.6.

#### Data and Analysis

53. PGSP also claims the City did not rely on relevant and appropriate data and analysis in adopting the Ordinance and Amendment. PGSP, however, did not conduct or provide the City with any studies.<sup>8</sup>

54. Daniel Porter, PGSP's expert in real estate, did not provide a comparative market analysis of the neighborhood or any other industry-recognized report. He proffered only opinion testimony based on email responses from four nearby residents, only one of which alluded to any issues with selling a home in the area.

---

<sup>8</sup> PGSP retained Mr. Gauthier for this administrative proceeding; he did not testify or prepare a report to the Planning Commission or the City Council. Petitioner's members presented no opposing reports or studies beyond lay opinion testimony during the public hearing.

55. Mr. Gauthier testified that in calculating his density and formulating his opinions, he used the City's map set and GIS data from the City's website.<sup>9</sup>

56. In contrast, the City relied on several data sources in reaching its conclusions regarding compliance in the Staff Report, in the presentations at the City Council meeting, and at the final hearing. These sources include the Comprehensive Plan and maps; LDRs; GIS aerials and maps; application materials; a narrative from the property owner; plat records; the Pinellas Countywide Plan Rules; and an outside Traffic Impact Statement by a traffic engineering firm, Kimley-Horn.

57. In addition to the Kimley-Horn report, Tom Whalen, the City's transportation planning expert, performed an analysis related to 64th Street South, which was included in the Staff Report. He also testified at the final hearing regarding his sources for that data, including a City-conducted traffic count, use of the Florida Department of Transportation's level of service tables, and the Forward Pinellas Countywide Rules.

58. At the final hearing, the City also presented demonstrative exhibits in the form of enlarged maps illustrating the surrounding neighborhood, the Property, and similar development patterns of RM and RU designations across the City.

59. Regarding the density calculation, the City introduced and explained the reasons and sources supporting its maximum density figure of 21 dwelling units per acre. This included the Pinellas Countywide Plan Rules, the Comprehensive Plan, and LDRs.<sup>10</sup>

60. The City established the Ordinance and Amendment are based upon surveys, studies, and data regarding the character of the land.

---

<sup>9</sup> "GIS" is Geographic Information Systems.

<sup>10</sup> Moreover, Mr. Kilborn explained that exact density calculations would be finalized during the site plan review process, which involves further surveys and engineering measurements.

61. Petitioner failed to prove beyond fair debate that the Ordinance was not supported by data and analysis, and/or that the City's response to that data and analysis was not appropriate.

#### Ultimate Findings

62. PGSP did not prove beyond fair debate that the Ordinance is not in compliance. All other contentions not specifically discussed have been considered and rejected.

63. The City has provided a preponderance of the evidence, which is both competent and substantial, which supports the findings in the Staff Report and the City Council's adoption of the Ordinance.

64. The City's determination that the Ordinance is in compliance is fairly debatable.

### CONCLUSIONS OF LAW

#### Scope of Review and Standing

65. DOAH has jurisdiction over the parties to and the subject matter of this proceeding pursuant to sections 120.569, 120.57(1), 163.3184, and 163.3187, Florida Statutes.

66. Chapter 163, part II (Community Planning Act), and the case law developed pursuant thereto, are the applicable law in this proceeding. See *Amelia Tree Conservancy, Inc. v. City of Fernandina Beach*, Case No. 19-2515GM (Fla. DOAH Sept. 16, 2019; Fla. DEO Oct. 16, 2019). A hearing on a plan amendment is a *de novo* proceeding. *Id.*

67. To have standing to challenge a comprehensive plan amendment, a person must be an "affected person" as defined in the Community Planning Act, section 163.3184(1)(a). The parties have stipulated that PGSP qualifies as an "affected person" and has standing to challenge the Ordinance.

68. As the party challenging the Amendment to the Comprehensive Plan's FLUM, PGSP must show the Amendment is not "in compliance" as defined in sections 163.3184(1)(b) and 163.3187(4). "In compliance" includes consistency

with the requirements of sections 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248.

69. In this proceeding, PGSP asserts the Amendment is inconsistent with the following policies in the Comprehensive Plan: Objective CM 10B and Policy CM 10.6.; Policy LU 3.4; and Policy LU 3.6.

Burden and Standard of Proof

70. As the party challenging the Ordinance, PGSP has the burden of proof. The findings of fact in this matter are to be determined by a preponderance of the evidence. *See* § 120.57(1)(j), Fla. Stat.

71. The City's determination that the Ordinance is "in compliance" is presumed to be correct and must be sustained if the City's determination of compliance is fairly debatable. *See* § 163.3187(5)(a), Fla. Stat.; *Coastal Dev. of N. Fla. v. City of Jacksonville Beach*, 788 So. 2d 204, 210 (Fla. 2001).

72. The term "fairly debatable" is not defined in chapter 163. In *Martin County v. Yusem*, 690 So. 2d 1288, 1295 (Fla. 1997), however, the Florida Supreme Court explained, "[t]he fairly debatable standard is a highly deferential standard requiring approval of a planning action if a reasonable person could differ as to its propriety." The Court further explained, "an ordinance may be said to be fairly debatable when for any reason it is open to dispute or controversy on grounds that make sense or point to a logical deduction that in no way involves its constitutional validity." *Id.* Put another way, where there is "evidence in support of both sides of a comprehensive plan amendment, it is difficult to determine that the [City's] decision was anything but 'fairly debatable.'" *Martin Cty. v. Section 28 P'shp, Ltd.*, 772 So. 2d 616 (Fla. 4th DCA 2000).

73. "A compliance determination is not a determination of whether a comprehensive plan amendment is the best approach available to the local government for achieving its purpose." *See Martin Cty. Land Co. v. Martin Cty.*, Case No. 15-0300GM, at RO ¶ 149 (Fla. DOAH Sept. 1, 2015; Fla. DEO Dec. 30, 2015). Moreover, in a compliance determination, the motives of the

local government are not relevant. See *Pacetta, LLC v. Town of Ponce Inlet*, Case No. 09-1231GM (Fla. DOAH Mar. 20, 2012; Fla. DEO June 19, 2012).

74. The findings of fact must additionally be supported by competent, substantial evidence. See *Payne v. City of Miami*, 52 So. 3d 707, 735 (Fla. 3d DCA 2010).

75. The competent, substantial evidence standard of review has been described as:

[E]ffectively [ ] the same standard [as] the "fairly debatable" test for review of legislative municipal zoning action: For the action to be sustained, it must be reasonably based in the evidence present. By whatever name it is called, the task of the court reviewing a zoning variance decision is to insure that the authority's decision is based on evidence a reasonable mind would accept to support a conclusion. If there was such evidence presented, the authority's determination must stand.

*Indialantic v. Nance*, 400 So. 2d 37, 40 (Fla. 5th DCA 1981) (internal quotations and citations omitted).

76. Mere "generalized statements in opposition to a land use proposal, even those from an expert, should be disregarded" and fail the competent, substantial evidence standard. See *City of Hialeah Gardens v. Miami-Dade Charter Found., Inc.*, 857 So. 2d 202, 204 (Fla. 3d DCA 2003).

#### Internal Consistency with the Comprehensive Plan

77. Section 163.3177(2) requires the several elements of the comprehensive plan to be consistent. A plan amendment creates an internal inconsistency when it conflicts with an existing provision of the applicable comprehensive plan.

78. The Comprehensive Plan is formatted with goals, objectives, and policies that describe how the City's programs, activities, and land development regulations will be initiated, modified, or continued, to



implement the Comprehensive Plan in a consistent manner. *See* § 163.3177(1), Fla. Stat.

79. In the context of the Community Planning Act, goals are statements of long-term vision or aspirational outcomes and are not measurable in and of themselves. Goals must be implemented by intermediate objectives and specific policies to carry out the general plan goals. *See* § 163.3164(19), (34), and (37), Fla. Stat.

80. Internal consistency does not require a comprehensive plan amendment to further every goal, objective, and policy in the comprehensive plan. It is enough if a plan provision is "compatible with," (i.e., does not conflict with) other goals, objectives, and policies in the plan. If the compared provisions do not conflict, they are coordinated, related, and consistent. *See Melzer, et al. v. Martin Cty.*, Case Nos. 02-1014GM and 02-1015GM, at RO ¶¶ 194-195 (Fla. DOAH July 1, 2003; Fla. DCA Oct. 24, 2003).

81. Based on the foregoing Findings of Fact, Petitioner did not prove beyond fair debate that the Ordinance is inconsistent with Comprehensive Plan Element CM 10B, or Policies CM 10.6, LU 3.4, and LU 3.6.

#### Data and Analysis

82. Section 163.3177(1)(f) requires all plan amendments be based on "relevant and appropriate data and an analysis by the local government." § 163.3177(1)(f)2., Fla. Stat. "The statute explains that to be based on data 'means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the ...plan amendment at issue.'" *222 Lakeview LLC v. City of West Palm Beach*, Case No. 18-4743GM, at RO ¶ 84 (Fla. DOAH Dec. 26, 2018), *aff'd per curiam*, 295 So. 3d 1185 (Fla. 4th DCA 2020).

83. All data available to the local government and in existence at the time of adoption of the plan amendment may be presented at the final hearing in this proceeding. *See 1182/3526S Rouse LLC and 1185/3626 Rouse LLC v. Orange Cty*, Case No. 18-5985GM, RO at ¶ 62 (Fla. DOAH Oct. 14, 2019).

84. Relevant analysis of data need not have been in existence at the time of adoption of a plan amendment. Data existing at the time of adoption may be analyzed through the time of the administrative hearing. *222 Lakeview LLC*, Case No. 18-4743GM at RO ¶ 86.

85. Data supporting an amendment must be taken from professionally accepted sources. *See* § 163.3177(1)(f)2., Fla. Stat. However, local governments are not required to collect original data. *Id.*

86. PGSP argued (1) the City did not have data to support the Ordinance and (2) the City did not look at enough data to support the Ordinance. However, consistent with its burden of proof, Petitioner must do more than simply allege a land use amendment is not based upon the best available existing data. PGSP was required to specifically identify the best available existing data it claims the City could have used but failed to use. *See Env't'l Coalition of Fla., Inc. v. Broward Cty.*, 586 So. 2d 1212, 1215 (Fla.1st DCA 1991). "The fact that other data may be available is irrelevant, as long as the data upon which the City's decision to adopt the amendment is based is taken from professionally accepted sources and gathered through professionally accepted methodologies." *Amelia Tree Conservancy, Inc.*, Case No. 19-2515GM RO at ¶ 152.

87. The City Council properly relied upon the Staff Report in adopting the Ordinance, which further qualifies as competent, substantial evidence. As reflected in the Staff Report, the presentation to the City Council, and the evidence at the final hearing, the City relied upon several sources of data and analyses in support of its determination of the Amendment's compliance. *See Katherine's Bay, LLC v. Fagan*, 52 So. 3d 19, 28 (Fla. 1st DCA 2010).

88. The evidence demonstrated there was extensive data and analysis, taken from professionally accepted sources and gathered through professionally accepted methodologies, to support the Ordinance.

89. PGSP failed to prove beyond fair debate that the Ordinance is not based on relevant and appropriate data and analysis by the City, as required by section 163.3177(1)(f).

Summary

90. For the reasons stated above, the City's determination that the Ordinance is "in compliance" is fairly debatable.

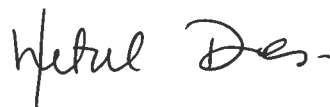
91. DOAH is not permitted to "substitute its discretion for that of the legislative body if the issue is a fairly debatable one." *Orange Cty. v. Butler Estates Corp.*, 328 So. 2d 864, 866 (Fla. 4th DCA 1976).

92. For the reasons state above, PGSP did not prove beyond fair debate that the Ordinance is not "in compliance," as that term is defined in section 163.3184(1)(b).

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Economic Opportunity enter a final order determining the City of St. Petersburg Comprehensive Plan Amendment, Ordinance 739-L, is "in compliance" as that term is defined by section 163.3184(1)(b).

DONE AND ENTERED this 3rd day of March, 2021, in Tallahassee, Leon County, Florida.



---

HETAL DESAI  
Administrative Law Judge  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 3rd day of March, 2021.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

## **SUMMARY**

The Countywide Rules include a procedure allowing local governments within Pinellas County to submit Countywide Plan Map boundary adjustments that are minor in nature and include only the following categories: Preservation and Recreation/Open Space.

These categories are often generalized on the Countywide Plan Map and, after site plan review at the local level or other action such as completion of a wetland jurisdictional determination, a more specific area can be delineated. To qualify for this process, the Countywide Rules require submission of one of the following: a letter of determination with accompanying legal description, a wetland jurisdictional survey, or final site plan.

More specifically, as per subsection 7.3.8.5 of the Countywide Rules, adjustments can be:

- Related to and consistent with a jurisdictional boundary determination under state agency rules which is consistent with such rules; or
- Related to and consistent with the purpose and characteristics of the particular plan category being adjusted and, absent a determination by the Executive Director to the contrary, based upon finding the local government with jurisdiction or its designee that such adjustment is de minimis in extent and effect.

The City of Clearwater is requesting a map adjustment to a property located at 24479 US Highway 19 North. The amendment area currently includes approximately 1.19 acres of Preservation land is being proposed to be adjusted to approximately 2.20 acres, resulting in a 1.01 acre increase in land designated as Preservation. The City is requesting to modify the existing Preservation boundary to reflect the jurisdictional boundary identified by the Southwest Florida Water Management District. The request meets the requirements of the map adjustment process and is submitted for official acceptance.

## **LIST OF MAPS & ATTACHMENTS:**

Map 1 Current Countywide Plan Map  
Map 2 Proposed Countywide Plan Map

Attachment 1 Avention Clearwater Zoning Request  
Attachment 2 Avention Clearwater Preservation Plan

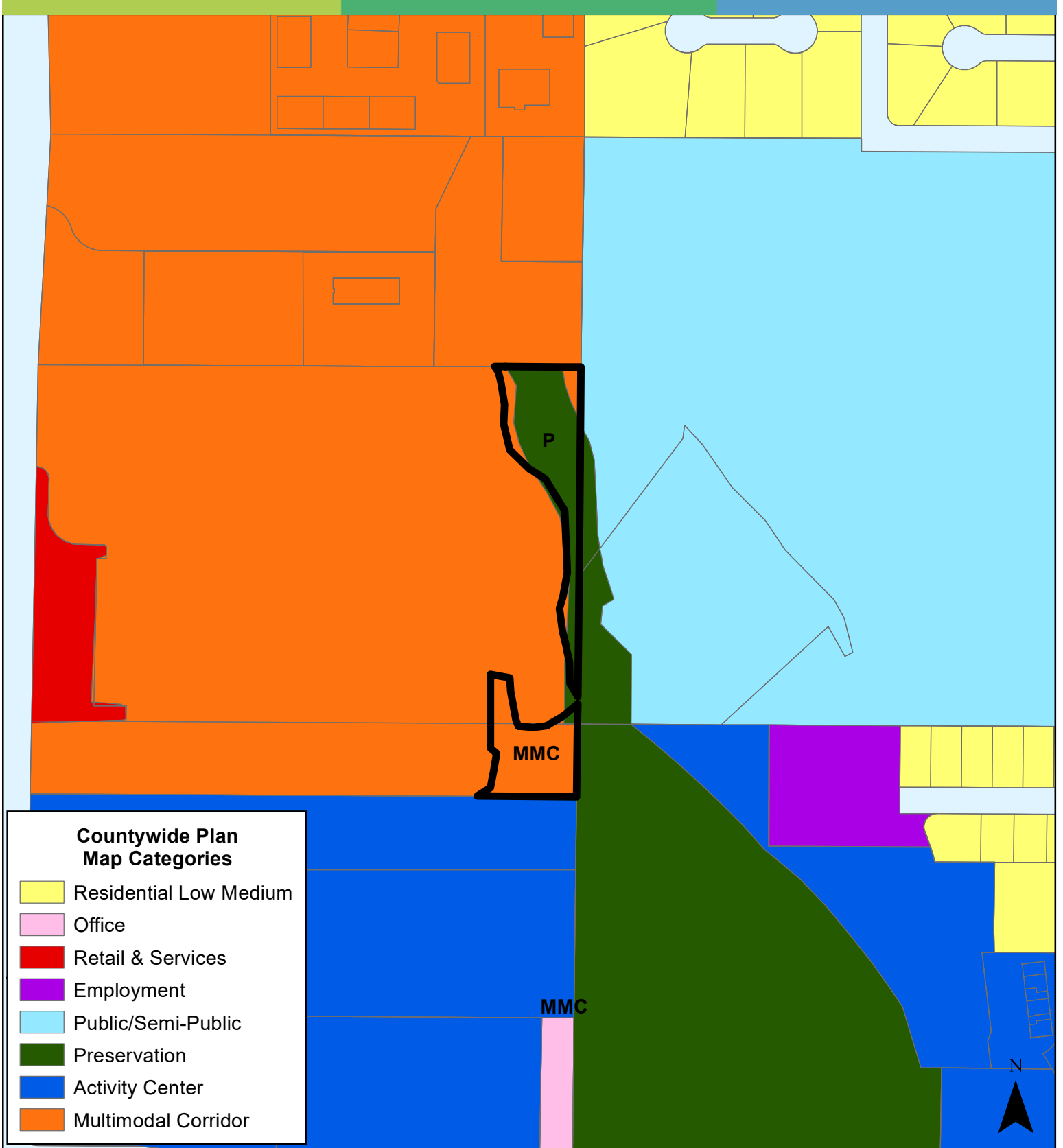
## **MEETING DATES:**

Planners Advisory Committee, May 3, 2021 at 1:30 p.m.  
Forward Pinellas, May 12, 2021 at 1:00 p.m.

Countywide Planning Authority, June 8, 2021 at 9:30 a.m.

# Map Adjustment MA21-01

## Map 1: Current Countywide Plan Map



**JURISDICTION:** Clearwater

**FROM:** Preservation, Multimodal Corridor

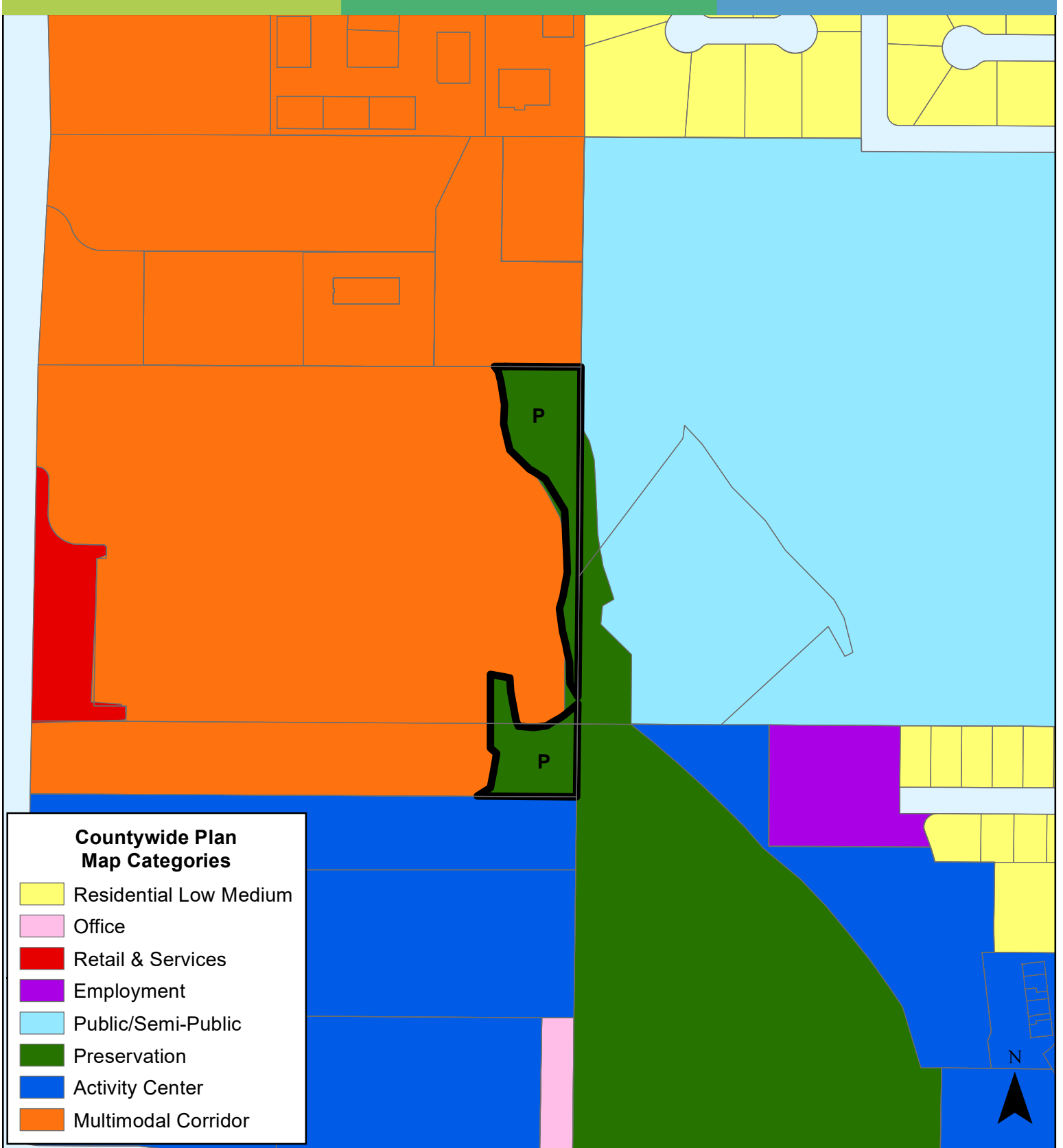
**AREA:** 2.20 Acres

**TO:** Preservation

0 250 500 Feet

# Map Adjustment MA21-01

## Map 2: Proposed Countywide Plan Map

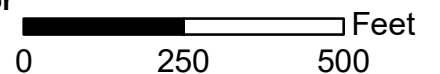


**JURISDICTION:** Clearwater

**FROM:** Preservation, Multimodal Corridor

**AREA:** 2.20 Acres

**TO:** Preservation







March 26, 2021

Kyle Brotherton  
City of Clearwater Long Range Planning Division  
100 S Myrtle Ave  
Clearwater, FL 33756

**RE:     Aventon Clearwater Multi-Family  
          Zoning Preservation Modification  
          24479 US Highway (FLS2020-10036)**

Dear Mr. Brotherton,

Please accept this submittal package as a request to modify the existing zoning preservation line on the east side of the proposed Aventon Multifamily Development to match the SWFWMD approved Jurisdictional Boundary as staked in by Thomson Environmental and reviewed in the field by SWFWMD and the FDEP. The JD line is shown on the attached specific purpose wetland survey by MRIC Spatial. The attached zoning modification plan shows the existing preservation zoning shaded in blue, the JD wetland boundary is shown with the grass hatch, and the average wetland buffer line is shown with a dark blue line.

Per Section 3-907 of the Clearwater Community Development Code, the proposed development will provide a 25' vegetative buffer. The buffer will be reduced at some locations by not more than 1/3 by providing additional width in another portion of the buffer. Both the 25' wetland buffer line and 16.67' wetland buffer line (1/3 reduction) have been shown on both the Zoning Modification and Wetland Buffer exhibits. The Wetland Buffer Exhibit shows the average wetland line in red, the wetland buffer with a green hatch, and the provided wetland buffer with a blue line. Both the wetland line and provided wetland buffer line are included as part of the Final Plat.

Please find the following attachments to support his request:

- Specific Purpose Wetland Survey
- Preservation Zoning Modification Plan
- Wetland Buffer Exhibit
- CAD with surveyed JD Line

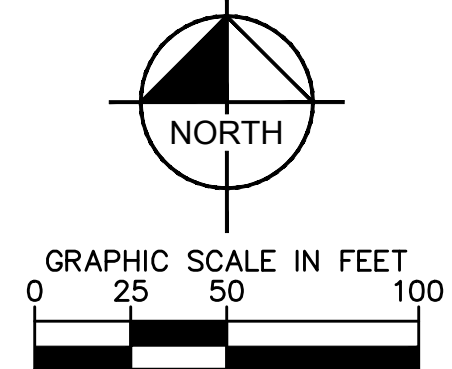
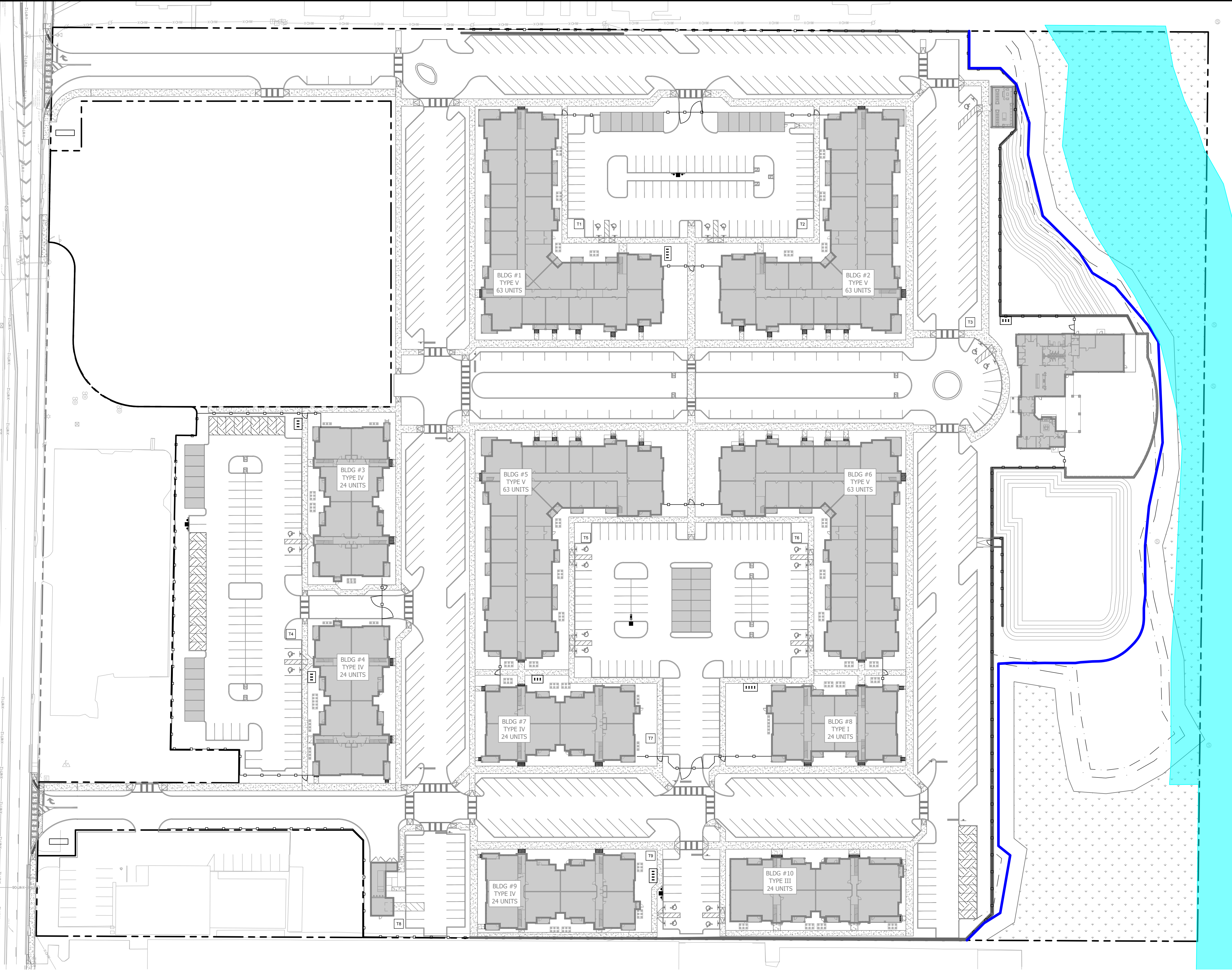
Should you have any questions regarding any of the comments addressed above, please do not hesitate to contact me at 813-620-1460 or [Matt.femal@kimley-horn.com](mailto:Matt.femal@kimley-horn.com) and respectively.

Sincerely,

Matthew Femal, P.E.  
Project Manager

Drawing name: K:\TAM\_Civil\145187 - Aventura\000 - Clearwater\CADD\Exhibit\Preservation Zoning Modification Plan.dwg PRESERVATION ZONING MOD Mar. 25, 2021 12:31pm by: brion-naught

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Use of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



**LEGEND**

- PROPERTY LINE
- - - 16' FT WETLAND BUFFER LINE (MIN.)
- - - 25' WETLAND BUFFER LINE
- AVERAGE WETLAND BUFFER
- ▨ JD WETLAND BOUNDARY
- PRESERVATION ZONING

| No. | REVISIONS                 | DATE     | BY  |
|-----|---------------------------|----------|-----|
| 1   | SW/FMD / ECS FIRST REVIEW | 03/12/21 | MRF |

**Kimley-Horn**  
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 655 NORTH FRANKLIN STREET, SUITE 150, TAMPA, FL 33602  
 PHONE: 813-620-1460  
 WWW.KIMLEY-HORN.COM

DESIGN ENGINEER:  
**MATTHEW R. FEJAL, P.E.**  
 FLORIDA REGISTRATION NUMBER:  
**66397**  
 DATE:

SCALE:  
 DESIGNED BY: DL  
 DRAWN BY: BFN  
 CHECKED BY: MRF

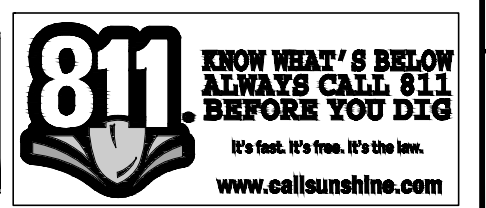
**PRESERVATION ZONING  
 MODIFICATION PLAN**

**AVENTON  
 CLEARWATER, FL  
 SUNSET POINT RD & US 19**  
 CITY OF CLEARWATER FLORIDA

DATE: 03/12/2021  
 PROJECT NO. 145187000

SHEET NUMBER  
**PZM**

**GROUNDWATER / DEWATERING NOTE:**  
 THE PRESENCE OF GROUNDWATER SHOULD BE ANTICIPATED ON THIS PROJECT. CONTRACTORS BID SHALL INCLUDE CONSIDERATION FOR THIS ISSUE, WHEN PERFORMING GRADING OPERATIONS DURING PERIODS OF WET WEATHER. PROVIDE ADEQUATE DEWATERING, DRAINAGE AND GROUND WATER MANAGEMENT TO CONTROL MOISTURE OF SOILS.



## Planners Advisory Committee – May 3, 2021

### 3C. CPA Actions and Tier I Countywide Plan Map Amendments

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#### SUMMARY

This information is presented in order to better, and more systematically, apprise the Forward Pinellas Board of final action(s) by the Board of County Commissioners, in their role as the Countywide Planning Authority (CPA) on matters that have been previously considered. This summary also includes the Tier I Countywide Plan Map Amendments that have been administratively reviewed by Forward Pinellas staff.

#### CPA Actions April 2021:

##### PUBLIC HEARINGS

The Board of County Commissioners, acting according to its Countywide Planning Authority, held public hearings on April 13, 2021 to consider the following amendments to the Countywide Plan Map:

- CW 21-02, a City of Tarpon Springs case located at Anclote Blvd. and L&R Industrial Blvd. was **approved** for an amendment from Residential Low Medium to Public/Semi-Public (vote: 7-0)
- CW 21-05, a City of Clearwater case located at 1280 and 1298 Lakeview Road was **approved** for an amendment from Residential Medium & Residential Low Medium to Residential Low Medium (vote: 7-0)
- CW 21-06, a City of St. Petersburg case located at 1501 72<sup>nd</sup> Street North was **continued until June 8<sup>th</sup>** for an amendment from Employment & Target Employment Center to Multimodal Corridor & Target Employment Center (vote: 7-0)
- CW 21-07, a Pinellas County case located in the Largo Tri-City Activity Center to include 180 parcels located near US Highway 19 between Belleair Rd. and 150<sup>th</sup> Ave. N. and near East Bay Drive/Roosevelt Blvd. between Lions Club Rd. and 49<sup>th</sup> Street N. was **approved** for an amendment from Retail & Services, Employment, Office, Public/Semi-Public, Residential Low Medium, Recreation/Open Space and Preservation to Activity Center and Multimodal Corridor (vote: 7-0)

#### Tier I Countywide Plan Map Amendments April 2021:

There were no Tier I amendments reviewed to report.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.

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## **SUMMARY**

Forward Pinellas staff has received requests for changes or clarifications to specific sections of the Countywide Rules. In order to be responsive to these requests, the following Rules amendments are proposed for PAC's review and input, and your consideration for a recommendation to the Board for approval.

### **1. Senior Housing Bonus**

Section 4.2.3.5 of the Countywide Rules governs housing density and intensity bonuses, and include bonuses for affordable housing and Missing Middle housing. Forward Pinellas has received a request to review our residential equivalency standards, specifically for the Assisted Living Facility (ALF) use. Staff recognize the growing residential needs of the aging population, and are introducing a Senior Housing Bonus to address this request through the following:

- Criteria for defining what qualifies as Senior Housing
- Allowing local government discretion for the methodology of determining the maximum residential dwelling unit, residential equivalent beds, and/or floor area ratio bonuses allowable in their applicable zoning district and/or future land use categories
- Criteria for compatibility with adjacent developments, relative to local government form-based or land development regulations
- Prohibiting application of this density/intensity bonus in the Coastal High Hazard Area
- Criteria for design features that ensure accessibility and promote age-appropriate physical activity

### **2. Map Adjustments**

Section 7.3.8.4 of the Countywide Rules governs map adjustments, which are changes to the boundaries of the Preservation or Recreation/Open Space categories or to submerged lands, to reflect natural changes or alterations consistent with the rules of the state agency with jurisdiction. Since these are typically actions governed by the Southwest Florida Water Management District over which Forward Pinellas and the Countywide Planning Authority do not have discretion, map adjustments are considered administrative adjustments rather than Countywide Plan Map amendments, and are not required to be approved at public hearing. Despite the administrative nature of the changes, they are currently subject to an "official acceptance" process which requires a vote by the Board and Countywide Planning Authority (CPA), a process that has created confusion for applicant local governments and property owners.

To address this confusion, and in response to other local government requests for interpretation and clarification of the map adjustment process, amendments are proposed which reorganize Section 7.3.8.4 into the following:

- General introduction for all map adjustments
- Submittal criteria for all map adjustments
- Criteria for adjusting Preservation or Recreation/Open Space, including clarification that a survey is required unless very specific diminimus criteria are met
- Criteria for adjusting submerged land
- Replacement of current “official acceptance process” with a process similar to Tier I map amendments, where staff processes the adjustments administratively and the Board and CPA are notified after the fact

### **3. Other Minor Amendments**

In response to other local government requests for clarification of other minor issues in the Rules, the following housekeeping amendments are proposed:

- Clarifying the definition of submerged land and how it is addressed in development calculations (Section 4.2.3.11 and Article 8)
- Clarifying the process for continuances and withdrawals of Countywide Plan Map amendments (Sections 6.3.2 and 6.3.3)
- Clarifying the number of days required between CPA public hearings for text amendments to the Countywide Plan (Section 7.8.3.1)
- Adding dog kennels, animal boarding facilities, and veterinary clinics to the definition of Agricultural-Light in addition to Agricultural uses (Article 8)

**ATTACHMENT(S):** Draft Countywide Rules Articles 4, 6, 7 and 8

**ACTION:** PAC to discuss, make a recommendation to the Forward Pinellas Board, and other action as deemed appropriate.

**ARTICLE 4**

**PLAN CRITERIA AND STANDARDS**

**DIV. 4.1      APPLICABILITY.**

All local government future land use plans and land development regulations shall be consistent with the criteria and standards in these Countywide Rules. The parameters for the criteria and standards have been established by category and shall be the basis for the administration of the Countywide Plan Map. The specific criteria by which consistency of the local future land use plans and land development regulations shall be judged include the following:

- Nomenclature
- Plan Categories
- Density/Intensity Standards
- Use and Locational Characteristics
- Map Delineation
- Acreage Thresholds and Other Standards

**DIV. 4.2      CRITERIA AND STANDARDS.**

**SEC. 4.2.1      NOMENCLATURE.**

**4.2.1.1**      Local government future land use categories shall be utilized in a manner that is consistent with the criteria and standards hereby established.

While the names or titles of local governments' future land use categories are not required to be precisely the same as the Countywide Plan Map categories, the names shall relate to the primary purposes of the categories as they relate to the Countywide Plan Map categories. For example, a local government category name of "Residential/Office Limited" would be deemed consistent with the Countywide Plan Map category of "Office," and "Planned Redevelopment-Mixed Use," would be deemed consistent with the "Activity Center" or "Multimodal Corridor" Countywide Plan Map category, depending upon intended use as addressed in the local government's amendment that addresses the Planning Criteria found in Article 2 for each respective category, specifically items 2-5.

The local government may, where it determines appropriate, append a local term to such category to tailor same to their local application; e.g., "Commercial General - Tarpon Springs Waterfront" or "Office - Downtown." Such local suffix may also be used to distinguish between the Countywide Plan Map category and its more specific local application.

**4.2.1.2**      This shall not be interpreted to mean that a local future land use plan is required to contain all or any specific number of the Countywide Plan Map categories.

**SEC. 4.2.2**      **PLAN CATEGORIES.**

**4.2.2.1**      **Categories.** The Countywide Rules hereby establish the following Countywide Plan Map categories:

- Residential Rural
- Residential Very Low
- Residential Low Medium
- Residential Medium
- Residential High
- Office
- Resort
- Retail & Services
- Employment
- Industrial
- Public/Semi-Public
- Recreation/Open Space
- Preservation
- Target Employment Center
- Activity Center
- Multimodal Corridor
- Planned Redevelopment District
- Scenic/Noncommercial Corridor

Each jurisdiction within Pinellas County must include a table or matrix in the future land use element of its comprehensive plan that shows each local future land use category corresponding to one of these Countywide Plan Map categories.

**4.2.2.2**      **Continuum.** A local future land use category that reflects a countywide category of equal or lesser density/intensity shall be considered consistent.

**4.2.2.2.1**      A local future land use plan designation of Preservation shall be considered less dense/intense than all other Countywide Plan Map designations.

**4.2.2.2.2**      A local future land use plan designation of Recreation/Open Space shall be considered less dense/intense than all other Countywide Plan Map designations except Preservation.

**SEC. 4.2.3**      **DENSITY/INTENSITY AND SPECIAL USE STANDARDS.**

**4.2.3.1**      **Provision for Comparison.** Each local future land use category shall either:

- Identify specifically the density/intensity standard which shall be applicable to said category, consistent with the applicable standard as set forth in the Countywide Plan Map and these Countywide Rules; or



- Provide a definitive statement that the pertinent density/intensity standard shall comply with the applicable standard as set forth in the Countywide Plan Map and these Countywide Rules and shall be specifically set forth in the corresponding local land development regulations.

**4.2.3.2**      **Required Consistency.** A local future land use plan with no required reference to, or specific standard for density/intensity, and any local land development regulation that does not specifically set forth the required density/intensity standard, shall be inconsistent with the Countywide Plan Map and these Countywide Rules. The local future land use plan and corresponding land development regulation category shall be considered consistent provided the applicable density/intensity is equal to or less than the density/intensity of the corresponding Countywide Plan Map category.

**4.2.3.3**      **Measurement of Density/Intensity.** At a minimum, local future land use plan and local development regulation standards will include the following measures of density/intensity:

1. Nonresidential:
  - Floor area ratio (FAR); and
  - If required by the applicable Countywide Plan Map category, impervious surface ratio (ISR).
2. Residential, and Vacation Rental pursuant to the provisions of Section 509.242(1)(c), Florida Statutes:
  - Dwelling units per net acre (UPA); or
  - If permitted by the applicable Countywide Plan Map category, FAR.
3. Residential Equivalent:
  - Equivalent beds per dwelling unit.
4. Temporary Lodging:
  - Temporary lodging UPA; or
  - Nonresidential FAR and (if required) ISR; or
  - If permitted by the applicable Countywide Plan Map category, upon adoption of provisions for compliance with Section 5.2.1.3, the density and intensity standards set forth in Table 6 may be used.
5. Mixed Use:
  - A combination of the applicable residential and nonresidential density/intensity standards, allocated in their respective proportion of the total lot area; or
  - If permitted by the applicable Countywide Plan Map category, all-inclusive FAR; or
  - The mixed-use bonus provisions of Section 4.2.3.6 may be used.

Density and intensity standards are expressed as a maximum, with the upper end of any range being the effective maximum for each category as set forth in Article 2 of these

Countywide Rules. In determining the maximum number of units to be allowed, any proportional fraction thereof can be rounded up to the nearest whole number, at the discretion of the local government with jurisdiction.

**4.2.3.4** **Provision for Adjustment.** Adjustment of intensity standards for floor area ratio (FAR) and impervious surface ratio (ISR) is provided for as set forth in Division 7.4 of these Countywide Rules. The provision for adjustment of intensity standards shall be considered a legitimate means by which to administer these Countywide Rules, but shall not be construed to qualify or in any manner diminish the requirement for definitive intensity standards in the local future land use plan and land development regulations, consistent with the Countywide Plan Map and these Countywide Rules.

**4.2.3.5** **Housing Density/Intensity Bonus.** A density/intensity bonus may be authorized by local government above the otherwise applicable maximum permitted density/intensity for each category as an incentive to provide affordable or Missing Middle housing, in addition to providing opportunities for more Senior Housing accommodations. This housing density/intensity bonus may permit an increase in the number of dwelling units and floor area allowed as provided for in the local government plan and/or land development regulations. No Countywide Plan Map amendment is required to employ this density/intensity bonus, but amendments are subject to the consistency review procedures outlined in Section 3.3.1.

A. In order to utilize this bonus provision to encourage ~~for~~ affordable housing, the local government shall approve an affordable housing plan and corresponding land development regulations, which shall be filed with the Council. An affordable housing plan shall contain, at a minimum, the following:

1. Definitions of what qualifies as affordable housing and other terms used within the plan;
2. Methodology for determining the maximum dwelling unit and/or floor area ratio bonuses relative to the underlying zoning district and/or future land use category; ~~Maximum dwelling unit and floor area ratio bonuses, in relationship to the number and percentage of affordable units, allowable in the specified zoning districts, future land use plan categories, the local plan and/or code provisions that establish the basis for and are filed of record in support of the AC or MMC plan category, and/or applicable special area plan(s) adopted prior to August 7, 2015;~~
3. Manner in which affordable housing density and/or intensity bonus units are calculated relative to the otherwise allowable mixed-use density/intensity formula;
4. Provisions that commit the resulting affordable units to a minimum specified period of time; and
5. Provisions for enforcement and monitoring, including any periodic reports required to be submitted to the local government.

B. The purpose of Missing Middle housing, as defined within these Countywide Rules, is to integrate more diverse types of housing into single-family neighborhoods while retaining compatibility with the existing neighborhood character. In order to utilize this ~~provision~~ housing density/intensity bonus for Missing Middle housing, ~~as defined within these Countywide Rules,~~ the local government shall adopt applicable land development regulations, which shall be filed with the Council and which shall contain, at a minimum, the following:

1. Definitions of what qualifies as Missing Middle housing and other terms used within the regulations;
2. Identified locations or locational characteristics appropriate for Missing Middle housing, consistent with the Forward Pinellas *Finding the Missing Middle* study published October 2017, incorporated by reference in Countywide Plan Strategies LU 11.4;
3. Methodology for determining the maximum dwelling unit and /or floor area ratio bonuses relative to the underlying zoning district and/or future land use category;
4. Form-based or other land development regulations limiting the size and scale of Missing Middle housing to ensure its compatibility with adjacent neighborhood-scale development; and
5. Design features that encourage walking, biking and transit use, such as lower parking standards, reduced setbacks, required sidewalks, etc.

C. The Senior Housing bonus is intended to increase the number and diversity of dwelling units available to senior residents, provide for continuity of care across the aging spectrum, and encourage an active lifestyle. In order to utilize the housing density/intensity bonus for Senior Housing, as defined within these Countywide Rules, the local government shall adopt applicable land development regulations, which shall be filed with the Council and which shall contain, at a minimum, the following:

1. Definitions of what qualifies as Senior Housing and other terms used within the regulations;
2. Methodology for determining the maximum Residential dwelling unit, Residential Equivalent beds, and/or floor area ratio bonuses relative to the underlying zoning district and/or future land use category;
3. Form-based or other land development regulations determining the size and scale of Senior Housing to ensure its compatibility with adjacent developments;
4. Land development regulations prohibiting application of this density/intensity bonus in the Coastal High Hazard Area; and
5. Design features that ensure accessibility and promote age-appropriate physical activity.

**4.2.3.6** **Mixed Use Density/Intensity Bonus.** A local government may authorize a waiver to the proportionate density/intensity allocation requirement of Section 4.2.3.3(5) as an incentive to encourage vertically integrated, transit supportive mixed-use development. This bonus may permit the full allocation of residential density and nonresidential intensity to be used, as provided for in the local government plan and/or land development regulations, for developments containing a mix of residential and nonresidential land uses within the same building. No Countywide Plan Map amendment is required to employ this density/intensity bonus, but amendments are subject to the consistency review procedures outlined in Section 3.3.1.

In order to utilize this provision, a local government shall adopt applicable land development regulations, which shall be filed with the Council and which shall contain, at a minimum, the following:

1. Definitions of what qualifies as vertically integrated, transit supportive mixed-use development, and other terms used within the regulations;
2. Identified locations or locational characteristics appropriate for such mixed-use development, consistent with the Planning and Urban Design Principles described in Land Use Goal 16.0 of the Countywide Plan Strategies, or other best practices;
3. Form-based or other land development regulations governing the size, scale, and mix of uses; and
4. Design features that encourage walking, biking and transit use, such as lower parking standards, reduced setbacks, required sidewalks, etc.

**4.2.3.7** **Development Impacts.** Density/intensity permitted at the time of application for platting or site plan approval, and subsequently impacted by the dedication of public right-of-way and/or the creation of submerged land as a function of that approval, shall thereafter be deemed to be consistent and conforming as to the maximum permitted density/intensity of the Countywide Rules.

**4.2.3.8** **Previously Approved Transferable Development Rights and Density/Intensity Averaging.** Density/intensity permitted as a function of transfer of development rights or density/intensity averaging through an approved master plan, planned development, or comparable process, prior to the effective date of this provision (Ordinance No. 10-23, April 15, 2010), including any density/intensity or transfer of development rights process adopted into a special area plan consistent with these Countywide Rules prior to that date, shall be deemed to be consistent and conforming as to the maximum permitted density/intensity requirements of the Countywide Rules, and any such permitted development that has received the appropriate development order may remain and be rebuilt or reconstructed to the same density or intensity after the effective date of Ordinance No. 10-23), unless such density or intensity is specifically prohibited by a local government's code or ordinance. Any such permitted development shall be considered consistent with the recording and filing requirements of the Countywide Rules.

**4.2.3.9**      **Exemptions from Intensity Standards in the Activity Center and Multimodal Corridor Categories.** To assist in achieving redevelopment goals within the Activity Center and Multimodal Corridor categories, exemptions to otherwise applicable intensity standards may be allowed as an incentive for limited uses that implement the Planning and Urban Design Principles described in Section 6.5.4.6 and Land Use Goal 16.0 of the Countywide Plan Strategies, and other local planning priorities (e.g., workforce housing and historic preservation), to a maximum of an additional 10% of the otherwise permitted floor area ratio. In order to utilize this provision, the local government shall adopt corresponding land development regulations which shall be filed with the Council. An FAR exemption subject to an applicable special area plan adopted prior to August 7, 2015, shall be considered to be consistent with the provisions of this section.

**4.2.3.10**      **Temporary Emergency Housing Following a Disaster.** Temporary emergency housing shall be permitted in accordance with the provisions of Pinellas County Code Chapter 34 Article II Division 2, or other applicable local government ordinance that applies to those municipalities that have opted out of the countywide temporary emergency housing ordinance. Such provisions include, but are not limited to, the allowance of temporary emergency housing in certain future land use categories where residential uses are not typically permitted, and the placement of temporary housing units on parcels of land containing uninhabitable permanent dwellings for a length of time as specified in the County Code or applicable municipal ordinance.

**4.2.3.11**      **Submerged Lands.** Submerged lands, as specifically defined within these Countywide Rules, shall have no designation and no associated density/intensity standards. Drainage detention areas created as a function of development that are recorded on an approved final site plan or other authorized development order action of the local government with jurisdiction, and wetlands landward of the mean and/or ordinary high water line, shall not be considered submerged land, and thus may be included in the computation of net land area for the purpose of determining permitted density/intensity, [provided that they are also included in the computation of net land area for any applicable acreage threshold.](#) Submerged lands may be added, deleted, or adjusted pursuant to Section 7.3.8.~~45~~.

**SEC. 4.2.4**      **USE/LOCATIONAL CHARACTERISTICS.**

Local future land use categories shall establish a description of appropriate uses and proper locations, in sufficient detail, so as to be determined comparable to, and consistent with, said characteristics for each Countywide Plan Map category as set forth in these Countywide Rules. Each local government designation in the local land development regulations must be consistent with the local future land use category and the corresponding Countywide Plan Map category.

**4.2.4.1**      Locational characteristics as set forth in the local government land use plan or land development regulations shall be consistent with and sufficiently detailed so as to be comparable to the corresponding Countywide Plan Map category as enumerated in these Countywide Rules.

**4.2.4.2** Use characteristics, as set forth in the local government land use plan or land development regulations, shall be considered consistent where they are comparable to, less extensive than, or more narrowly defined than, the corresponding enumerated list of permitted uses for each category under these Countywide Rules. Such use characteristics in the local plan or regulations shall not exceed the parameters of, or provide for uses not allowed under, the corresponding categories of these Countywide Rules as established under Section 4.2.2.1, except as expressly and specifically provided in Section 4.2.4.3.

Accessory uses normally found in association with, incidental to, and subordinate to the permitted use characteristics of the Countywide Rules, are allowed as provided for by the local jurisdiction and subject to their specific requirements.

**4.2.4.3** Uses in the local government land use plan and land development regulations may provide for use characteristics not normally allowed under the respective category of these Countywide Rules, subject to all of the following criteria:

1. This section shall apply only to the Retail & Services and Office categories and the uses allowed under those categories;
2. This section shall not apply to any property located on a Scenic/Noncommercial Corridor of these Countywide Rules;
3. This section shall not apply to any property which has an area of more than three acres; and
4. Uses in the local government plan and regulations shall be subject to specified provisions of the local plan governing compatible land use relationships, and shall further be subject to all applicable density/intensity standards and traffic generation rates which govern the local plan map category in which the subject use is located, or the Countywide Plan Map category in which the subject use is located, whichever is more restrictive, said determinations to be made as follows:
  - a. The maximum permitted density shall not exceed the maximum number of dwelling units per acre permitted under the land use category of record in the local plan or the Countywide Plan Map, whichever is more restrictive;
  - b. The maximum permitted intensity shall not exceed the maximum floor area ratio or the maximum impervious surface ratio permitted under the land use category of record in the local plan or the Countywide Plan Map, whichever is more restrictive; and
  - c. The maximum permitted density and/or intensity of use shall be further limited such that no additional traffic is generated above that which would have been produced by the maximum density/intensity of the uses otherwise permitted in the category of record in the local plan or the Countywide Plan Map, whichever is more restrictive. Traffic generation rates shall be calculated based upon the

Countywide Plan standard for the land use category of record or as provided for under the local plan and regulations, whichever shall be the more restrictive.

**SEC. 4.2.5 MAP DELINEATION.**

The local future land use plan maps shall be consistent if the local future land use plan designation for each parcel does not exceed the criteria and standards of the corresponding Countywide Plan Map designation.

**SEC. 4.2.6 ACREAGE THRESHOLDS AND OTHER STANDARDS.**

Local future land use plans and development regulations shall include policies and/or standards consistent with the acreage threshold and other standards contained in the description of each Countywide Plan Map category. Where no such standards are in place in the local future land use plan or land development regulations, the local future land use plan or land development regulation shall be amended to provide for same or be found inconsistent. This shall not be interpreted to preclude the local government from having a smaller, more restrictive acreage threshold for amendment.

**SEC. 4.2.7 COASTAL HIGH HAZARD AREAS.**

**4.2.7.1**

The Pinellas Planning Council and the Countywide Planning Authority shall deny an amendment to the Countywide Plan Map within the Coastal High Hazard Area (CHHA) which results in an increase of density or intensity; except that they may, at their sole and absolute discretion, consider approving such amendment based upon a balancing of the following criteria, as are determined applicable and significant to the subject amendment:

- A. Access to Emergency Shelter Space and Evacuation Routes – The uses associated with the requested amendment will have access to adequate emergency shelter space as well as evacuation routes with adequate capacities and evacuation clearance times.
- B. Utilization of Existing and Planned Infrastructure – The requested amendment will result in the utilization of existing infrastructure, as opposed to requiring the expenditure of public funds for the construction of new, unplanned infrastructure with the potential to be damaged by coastal storms.
- C. Utilization of Existing Disturbed Areas – The requested amendment will result in the utilization of existing disturbed areas as opposed to natural areas that buffer existing development from coastal storms.
- D. Maintenance of Scenic Qualities and Improvement of Public Access to Water – The requested amendment will result in the maintenance of scenic qualities, and the improvement of public access, to the Gulf of Mexico, inland waterways (such as Boca Ciega Bay), and Tampa Bay.

- E. Water Dependent Use – The requested amendment is for uses which are water dependent.
- F. Part of Community Redevelopment Plan – The requested amendment is included in a Community Redevelopment Plan, as defined by Florida Statutes for a downtown or other designated redevelopment areas.
- G. Overall Reduction of Density or Intensity –The requested amendment would result in an increase in density or intensity on a single parcel, in concert with corollary amendments which result in the overall reduction of development density or intensity in the surrounding CHHA.
- H. Clustering of Uses – The requested amendment within the CHHA provides for the clustering of uses on a portion of the site outside the CHHA.
- I. Integral Part of Comprehensive Planning Process – The requested amendment has been initiated by the local government as an integral part of its comprehensive planning process, consistent with the local government comprehensive plan.

**4.2.7.2** The Pinellas Planning Council and the Countywide Planning Authority shall deny an amendment to the Countywide Plan Map within the CHHA which would permit the siting or expansion of uses that are inconsistent with the CHHA, given their susceptibility to storm damage or special evacuation requirements, including hospitals, nursing homes, convalescent homes, adult living facilities, recreational vehicles, and mobile homes; except that they may, at their sole and absolute discretion, consider approving such amendment based upon a balancing of the criteria in Section 4.2.7.1, A-H, as are determined applicable and significant to the subject amendment.

**4.2.7.3** Local government amendments that would result in an increase in density or intensity within the CHHA as discussed in Section 4.2.7.1, or would permit the siting or expansion of uses that are inconsistent with the CHHA as discussed in Section 4.2.7.2 must be reviewed against locally-adopted requirements that are consistent with the balancing criteria found in Section 4.2.7.1 A-H. For Tier II and III amendments, an evaluation of these criteria must be included with a Countywide Plan Map submittal pursuant to Section 6.1.3.2. For Tier I amendments, if a local government has not adopted and utilized the balancing criteria in its review process, any such amendments will be found inconsistent with the Countywide Plan pursuant to the provisions of Article 3.

**4.2.7.4** Nothing in these Countywide Rules shall be construed or applied to preclude a local government with jurisdiction from having requirements in the CHHA that are more restrictive than the terms set forth herein.

**4.2.7.5** Nothing in these Countywide Rules should be construed as superseding or otherwise modifying the local plan amendment requirements of Section 163.3178(8), Florida Statutes.



**ARTICLE 6**

**COUNTYWIDE PLAN MAP AMENDMENT**

**SEC. 6.1.1**     **APPLICATION.**

Local governments may initiate Countywide Plan Map amendments only as provided for in this Article in accordance with Section 10(3) of Chapter 2012-245, Laws of Florida, as amended, and the particular procedures established in these Countywide Rules. No amendment to the Countywide Plan Map shall be considered by the PPC until the local government applying for such amendment has established jurisdiction.

Applications for amendment of the Countywide Plan Map shall be preceded by, and based upon, a local ordinance considered at public hearing and authorized by an affirmative vote of the governing body for transmittal of, and concurrence with, the local government future land use map amendment; subject to any requisite determination of compliance by the State Land Planning Agency pursuant to Chapter 163, Part II, Florida Statutes, adoption of an ordinance effectuating a consistent amendment of the Countywide Plan Map by the Countywide Planning Authority pursuant to Chapter 2012-245, Laws of Florida, and final action by the local governing body.

**SEC. 6.1.2**     **TIERED REVIEW PROCESS.**

Local future land use map amendments and other requests to amend the Countywide Plan Map shall be evaluated according to the following process, consistent with Chapter 2012-245, Laws of Florida, as amended, to determine if an amendment to the Countywide Plan Map is required, and if so, to determine the applicable review standards. The PPC Executive Director will make a determination whether the local future land use map amendment is subject to review under the Tier I, II or III process. Boundary interpretations addressed by Section 7.3.8 shall not be subject to the tiered review process.

**6.1.2.1**     **Tier I.** A local future land use map amendment is classified as Tier I if the current and proposed land use categories fall within the same corresponding designation on the Countywide Plan Map as established pursuant to Section 4.2.2.1, with the exception of the Activity Center, Multimodal Corridor and Planned Redevelopment District categories, which are classified subject to the review provisions of Division 6.2.

Upon determination that an amendment is subject to the Tier I process, an administrative review notice will be forwarded to the local government within ten business days, and to the Pinellas Planning Council at their next scheduled meeting, with a finding that the amendment is subject to a Tier I review and did not require a Tier II or III amendment. As a Tier I amendment will not alter the Countywide Plan Map, a public hearing to amend the Countywide Plan Map is not required.

Tier I amendments that increase densities and/or intensities in the Coastal High Hazard Area shall require local adoption of standards consistent with Section 4.2.7.1 A-H in order to be found consistent.

**6.1.2.2** **Tier II.** A local future land use map amendment is classified as a Tier II amendment if the current and proposed land use categories do not fall within the same corresponding designation on the Countywide Plan Map as established pursuant to Section 4.2.2.1, with the exception of amendments to the Activity Center, Multimodal Corridor and Planned Redevelopment District categories, which are classified subject to the review provisions of Division 6.2. A public hearing to amend the Countywide Plan Map shall be required.

A request to amend the Countywide Plan Map without a corresponding amendment to a local future land use map may be initiated consistent with Section 4.2.1.1 or to implement a Rule amendment pursuant to Section 7.8.5, and shall be classified as a Tier II amendment. Such amendment may be initiated only by the local government with jurisdiction, pursuant to a formal resolution adopted by its governing body requesting and setting forth the specifics of the amendment.

**6.1.2.3** **Tier III.** A local future land use map amendment to the Activity Center or Multimodal Corridor category is classified as Tier III subject to the review provisions of Division 6.2. A public hearing to amend the Countywide Plan Map shall be required.

### **SEC. 6.1.3** **PROCEDURES.**

Countywide Plan Map amendments shall be considered according to the following process, consistent with Chapter 2012-245, Laws of Florida, as amended, and as provided for in each Division in this Article.

**6.1.3.1** **Initiation.** Only the governing body may initiate an amendment to the Countywide Plan Map for a particular parcel of property over which it has jurisdiction. An amendment of the Countywide Plan Map shall be transmitted to the PPC subsequent to the initial action by the governing body authorizing the transmittal of and concurrence with the local ordinance, and prior to finalizing adoption of the local ordinance, except where Section 163.3187(2), Florida Statutes, provides for a small-scale map amendment, which may be submitted subsequent to final adoption.

**6.1.3.2** **Submission of Application.** Before an application of a Countywide Plan Map amendment shall be heard by the PPC, a written application shall be submitted in a form established by the PPC, not later than twenty-eight days prior to the PPC meeting at which it is eligible to be considered.

At submittal, a Countywide Plan Map amendment request must include:

- A completed Countywide Plan Map amendment application form;

- A map or map series sufficient to depict the boundaries, current future land use categories, and proposed future land use categories of the subject property and surrounding area;
- A copy of the ordinance being considered by the governing body;
- If technically feasible, a shapefile of any wetlands or other irregular boundaries included in the amendment; and
- A copy of the local government staff report and any other pertinent information considered during the local public hearing process.

In addition, the following items must be submitted if applicable to the amendment:

- A boundary survey;
- A development agreement;
- If located in the Coastal High Hazard Area (CHHA), review against locally-adopted balancing criteria consistent with Section 4.2.7.1 A-H; and
- If amending the Activity Center or Multimodal Corridor category, additional requirements as outlined in Section 6.2.3.

**6.1.3.3**      **Determination of Completeness.** The Executive Director shall have the authority to make the interpretation as to the completeness of a submitted application to amend the Countywide Plan Map. If the Executive Director determines that the submitted application is not complete, the Executive Director shall provide written notice to the applicant specifying the deficiencies. No action shall be taken on the requested amendment until the Executive Director determines that the deficiencies have been remedied.

**6.1.3.4**      **Notice and Public Hearing by PPC.** The PPC shall hold a public hearing, advertised and noticed as required by Division 7.8, prior to taking action on a requested amendment of the Countywide Plan Map.

**6.1.3.5**      **Recommendation by PPC.** The PPC shall make a recommendation to the CPA within sixty days of receipt of a complete application for amendment.

**SEC. 6.1.4**      **DETERMINATION.**

Amendments to the Countywide Plan Map shall be reviewed by, and require the approval of, the CPA upon recommendation of the PPC. Decisions of the PPC and the CPA, with respect to the disposition of Countywide Plan Map amendments, are considered legislative in nature.

**6.1.4.1**      **PPC Action.** The PPC may recommend approval, denial, continuation or alternative action to the CPA; any of which such recommendations shall constitute action by the PPC within the stipulated sixty-day period.

- 6.1.4.2**      **Notice of Denial.** The PPC shall, within five days, notify the applicant local government in writing of any recommendation by the PPC to deny an amendment eligible for administrative hearing, and shall advise the applicant local government of their right to apply for such administrative hearing and the time limitation applicable thereto.
- 6.1.4.3**      **Right to Administrative Hearing.** If the PPC recommends denial of an amendment to the Countywide Plan Map relating to the land use designation of a particular parcel of land, any substantially affected person may apply for an administrative hearing within twenty-one days of denial.
- 6.1.4.4**      **Applications for Administrative Hearing.** All applications for administrative hearing by a substantially affected person will be filed with the office of the PPC within twenty-one days of denial. Said application will be in a form for consideration under, and subject to the procedures of, Chapter 120, Florida Statutes. In the event an application for administrative hearing is filed, the Countywide Plan Map amendment shall not be considered by the CPA pending disposition of the administrative hearing.
- 6.1.4.5**      **CPA Consideration.** The CPA shall consider an application for amendment of the Countywide Plan Map upon receipt of the recommendation of the PPC.
- 6.1.4.6**      **Public Hearing by CPA.** The CPA shall hold a public hearing, advertised and noticed as required by Division 7.8, prior to taking action on a requested amendment of the Countywide Plan Map.
- 6.1.4.7**      **CPA Action.** The CPA may approve or deny the application for amendment upon consideration of the recommendation of the PPC. Any action by the CPA contrary to the PPC recommendation shall require a majority plus one vote of the entire CPA.
- 6.1.4.8**      **Reconsideration.** The reconsideration of any action on an amendment by the PPC or CPA shall be as otherwise prescribed by the respective operating procedures of each the PPC and the CPA. In the absence of such defined operating procedures, reconsideration shall be by motion of a member of the prevailing side on the applicable amendment vote, and affirmative action on such motion, at the same meeting at which the initial action was taken.
- 6.1.4.9**      **Right to Administrative Hearing.** If the CPA denies an amendment which was recommended to be approved by the PPC, any substantially affected person may apply for an administrative hearing within twenty-one days of denial.
- 6.1.4.10**     **Final Action by CPA After Administrative Hearing.** Final action by the CPA subsequent to any administrative hearing shall be limited to the findings of fact of the administrative hearing officer.

**SEC. 6.1.5 APPLICATIONS CONTAINING DEVELOPMENT AGREEMENTS.**

**6.1.5.1 Submission of a Development Agreement.** A development agreement is not required to be submitted as part of an application for Countywide Plan Map amendment, however a development agreement may be submitted in support of a Countywide Plan Map amendment. Such submission shall be entirely at the discretion of the local government jurisdiction.

Local governments shall enter into, amend, and revoke a development agreement per the requirements pertaining to development agreements found in Sections 163.3220 - 163.3243, Florida Statutes.

Prior to submission of the Countywide Plan Map amendment for consideration by the Council, any development agreement submitted for consideration as part of an application for Countywide Plan Map amendment shall, at a minimum, be approved by the local jurisdiction after public hearing by the legislative body and be executed by the applicant property owner and other private party(ies) to the agreement.

The amendments to the Rules, as contained in Article 6, Section 6.1.6, subsections 6.1.6.1 through 6.1.6.3, shall not apply retroactively to any development agreement submitted and made a condition of a plan amendment approved by the PPC and CPA prior to the effective date of this provision (Ordinance No. 08-81, December 24, 2008),

**6.1.5.2 Consideration of Development Agreement by PPC and CPA.** The Council and CPA shall consider a development agreement, submitted by a local government jurisdiction in support of a Plan Map amendment request, in accordance with the consistency criteria and Relevant Countywide Considerations of the Countywide Plan Rules.

After all necessary approvals are obtained by the local jurisdiction and the development agreement is fully executed, a true and correct copy of the fully executed development agreement shall be submitted to the Council, to be filed with the corresponding Countywide Plan Map amendment ordinance.

**6.1.5.3 Change to Development Agreement Subsequent to Countywide Plan Map Approval.** The local government with jurisdiction will make the determination as to whether any change to an approved development agreement constitutes an amendment or revocation of the development agreement, and will make any such amendment or revocation in accordance with Sections 163.3220 – 163.3243, Florida Statutes.

A development agreement submitted and made a condition of a Countywide Plan Map amendment that is approved by the CPA, which development agreement is subsequently amended or revoked by a local government pursuant to the requirements in Sections 163.3220 – 163.3243, Florida Statutes, shall be resubmitted to the PPC and CPA.

The PPC shall recommend, and the CPA shall determine, based on the significance of the amendment or revocation in relation to the consistency criteria and the Relevant Countywide Considerations of the Countywide Rules pertaining to the Plan Map amendment, whether the amendment or revocation of the development agreement requires the Plan Map amendment to which it corresponded to be reconsidered.

If the CPA determines that the amendment or revocation of the development agreement requires the Countywide Plan Map amendment to be reconsidered, the local government jurisdiction will be so notified and may request the Plan Map amendment be reheard, void and amend its local plan consistent with the Countywide Plan Map as it existed prior to the subject Plan Map amendment, resubmit an application for Plan Map amendment, with or without a revised development agreement, or such other action as will result in consistency between the local and Countywide Plan Maps.

A resubmitted Plan Map amendment will be processed as any other application for amendment.

**SEC. 6.1.6 OFFICIAL RECORD.**

Upon approval of a Countywide Plan Map amendment by the CPA, an official record copy of said ordinance will be maintained in the office of the Clerk of the Board. The office of the PPC shall maintain a record copy of all Countywide Plan Map amendments and, upon transmittal of the ordinance amending the Countywide Plan Map by the Clerk of the Board, shall cause such amendment to be properly recorded on the official Countywide Plan Map.

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| <b>DIV. 6.2</b> | <b>COUNTYWIDE PLAN MAP AMENDMENTS / ACTIVITY CENTERS, MULTIMODAL CORRIDORS AND PLANNED REDEVELOPMENT DISTRICTS.</b> |
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**SEC. 6.2.1 NEW ADOPTIONS.**

**6.2.1.1 Adoption of New Activity Centers and Multimodal Corridors.** An amendment adopting the Activity Center (AC) plan category that is not contiguous to, and subject to the same plan/code provisions as, an existing AC designation results in the creation of a new Activity Center. An amendment adopting the Multimodal Corridor (MMC) plan category in a location that is not contiguous to, and subject to the same plan/code provisions as, an existing MMC designation results in the creation of a new Multimodal Corridor.

Each new Activity Center or Multimodal Corridor shall be classified with a subcategory based on the locational criteria of Sections 2.3.3.15-16, or as otherwise approved through the Countywide Plan Map amendment process. The subcategory shall be depicted on the Land Use Strategy Map.

Such amendments are subject to the tiered amendment review process set forth in Section 6.1.2, as determined by the eligibility criteria shown in Table 7.

As part of the adoption process, the highest allowable density and/or intensity standard applicable to the Activity Center or Multimodal Corridor shall be filed of record and used in determining the applicable tier for subsequent amendments as set forth in Section 6.2.2.1. If residential, temporary lodging, nonresidential and/or mixed uses are differentiated with separate standards by the implementing plan/code provisions, these standards shall be recorded separately.

**Table 7**  
**Amendments Creating New Activity Centers or Multimodal Corridors**

| Amendment Type | Eligibility Criteria   |
|----------------|--|
| Tier II        | <p>Adoption of the AC or MMC category with implementing plan/code provisions that:</p> <ul style="list-style-type: none"> <li>• Include density/intensity standards at or below the maximum for the applicable AC or MMC subcategory based on the locational criteria of Sections 2.3.3.15-16; and</li> <li>• Do not permit uses enumerated in Section 6.2.4.1; and</li> <li>• Do not eliminate permitted uses enumerated in Section 6.2.4.2.</li> </ul> |
| Tier III       | <p>Adoption of the AC or MMC category with implementing plan/code provisions that:</p> <ul style="list-style-type: none"> <li>• Include density/intensity standards above the maximum for the applicable AC or MMC subcategory based on the locational criteria of Sections 2.3.3.15-16; or</li> <li>• Permit uses enumerated in Section 6.2.4.1; or</li> <li>• Eliminate permitted uses enumerated in Section 6.2.4.2.</li> </ul>                       |

**6.2.1.2**      **Adoption of New Planned Redevelopment Districts.** An amendment adopting the Planned Redevelopment District (PRD) plan category in a location that is not contiguous to, and subject to the same plan/code provisions as, an existing PRD designation results in the creation of a new Planned Redevelopment District. Such amendments are subject to the Tier II amendment review process set forth in Section 6.1.2.2.

**SEC. 6.2.2**      **SUBSEQUENT AMENDMENTS.**

**6.2.2.1**      **Amendment of Existing Activity Centers or Multimodal Corridors.** An amendment to the local future land use map or plan/code provisions governing an existing Activity Center or Multimodal Corridor that results in a change to the permitted uses, density/intensity standards, or category boundaries on the Countywide Plan Map are subject to the tiered amendment review process set forth in Section 6.1.2, as determined by the eligibility criteria shown in Table 8.



**Table 8**  
**Amendments to Existing Activity Centers and Multimodal Corridors**

| <b>Amendment Type</b> | <b>Eligibility Criteria</b>  |
|-----------------------|--|
| Tier I                | <p>Amendment does not exceed the highest allowable density or intensity standard filed of record; and</p> <p>Amendment does not alter the boundaries of the AC or MMC category on the Countywide Plan Map; and</p> <p>Amendment does not add permitted uses enumerated in Section 6.2.4.1 nor eliminate permitted uses enumerated in Section 6.2.4.2; and</p> <p>Amendment does not eliminate local future land use map categories enumerated in Section 6.5.4.4; and</p> <p>Planning and Urban Design Principles have previously been addressed and filed of record under the Tier II or Tier III process.</p>  |
| Tier II               | <p>Amendment proposes one or more of the following:</p> <ul style="list-style-type: none"> <li>• Increases the highest allowable density or intensity standard consistent with the locational criteria of the Land Use Strategy Map as specified in Section 2.3.3.15-16; or</li> <li>• Alters the boundaries of the AC/MMC category on the Countywide Plan Map; or</li> <li>• Eliminates permitted uses enumerated in Section 6.2.4.2; or</li> <li>• Eliminates local future land use map categories enumerated in Section 6.5.4.4; or</li> <li>• Planning and Urban Design Principles have not previously been addressed and filed of record under the Tier II or Tier III process.</li> </ul> <p>and</p> <p>Amendment does not add permitted uses enumerated in Section 6.2.4.1.</p> |
| Tier III              | <p>Amendment increases the highest allowable density or intensity standard exceeding the locational criteria of the Land Use Strategy Map as specified in Section 2.3.3.15-16; or</p> <p>Amendment adds permitted uses enumerated in Section 6.2.4.1.</p>  |

**6.2.2.2**

**Amendment of Existing Planned Redevelopment Districts.** An amendment to the local future land use map or plan/code provisions governing an existing Planned Redevelopment District that results in a change to the permitted uses, density/intensity standards, or category boundaries are subject to the tiered amendment review process set forth in Section 6.1.2, as determined by the eligibility criteria shown in Table 9.

**Table 9  
Amendments to Existing Planned Redevelopment Districts**

| <b>Amendment Type</b> | <b>Eligibility Criteria</b>  |
|-----------------------|--|
| Tier I                | Amendment does not alter the boundaries of the PRD category on the Countywide Plan Map; and<br><br>Amendment does not add permitted uses enumerated in Section 6.2.4.1 nor eliminate permitted uses enumerated in Section 6.2.4.2; and<br><br>Amendment does not eliminate local future land use map categories enumerated in Section 6.5.4.4; and<br><br>Planning and Urban Design Principles have previously been addressed and filed of record under the Tier II or Tier III process.   |
| Tier II               | Amendment proposes one or more of the following: <ul style="list-style-type: none"> <li>• Alters the boundaries of the PRD category on the Countywide Plan Map; or</li> <li>• Adds permitted uses enumerated in Section 6.2.4.1; or</li> <li>• Eliminates permitted uses enumerated in Section 6.2.4.2; or</li> <li>• Eliminates local future land use map categories enumerated in Section 6.5.4.4; or</li> <li>• Planning and Urban Design Principles have not previously been addressed and filed of record under the Tier II or Tier III process.</li> </ul> |

A local map or plan/code amendment governing an existing Activity Center, Multimodal Corridor or Planned Redevelopment District that does not change the permitted uses, density/intensity standards, or category boundaries on the Countywide Plan Map is classified as Tier I.

**6.2.2.3**

**Reclassification of Special Centers and Special Corridors.** An Activity Center or Multimodal Corridor utilizing the Special Center or Special Corridor subcategory prior to October 24, 2019 shall, on October 24, 2019, be reclassified with a subcategory pursuant to Sections 2.3.3.15-16, which shall be depicted on the Land Use Strategy Map. Such subcategory reclassification shall occur in coordination with the local government

with jurisdiction, shall be sufficient to accommodate the locally-adopted maximum density and intensity standards governing the Activity Center or Multimodal Corridor as of October 24, 2019, and shall not result in any nonconforming standard. Subsequent amendments to this subcategory classification shall be subject to the amendment process for existing Activity Centers and Multimodal Corridors outlined in the remainder of this section.

The highest allowable density and/or intensity standard filed of record for each reclassified Activity Center or Multimodal Corridor shall be used in determining the applicable tier for subsequent amendments as set forth in Section 6.2.2.1. If residential, temporary lodging, nonresidential and/or mixed uses are differentiated with separate standards by the implementing plan/code provisions, these standards shall be considered separately.

**SEC. 6.2.3 SUBMITTAL REQUIREMENTS.**

**6.2.3.1 Additional Requirements for Tier I, II, and III Amendments.**

In addition to the general submittal requirements of Section 6.1.3.2, Tier I, II and III amendments to the Activity Center (AC), Multimodal Corridor (MMC), or Planned Redevelopment District (PRD) plan categories must include and address the items set forth below as part of the application, review, and approval process:

- A. **Boundary Map** – A parcel specific map or map series of sufficient detail to delineate the boundaries of the AC, MMC or PRD category. If technically feasible, a GIS shapefile of the boundary shall be provided, otherwise a list parcels to be amended shall be included with the submittal.
- B. **Current Land Use Designations** – A list of local future land use map designations that are currently within the proposed boundaries of the AC, MMC or PRD category, their acreages, and their associated permitted uses and maximum densities/intensities.
- C. **Proposed Land Use Designations** – A list of proposed future land use map designations, character districts, zoning districts or subdistricts within the proposed boundaries of the AC, MMC or PRD category, their acreages, and their associated permitted uses and maximum density/intensity standards.

If density/intensity averaging is being used pursuant to Section 5.2.1.2.4, provide a calculation of the average areawide density/intensity that could potentially be achieved based on the proposed land use designations, and documentation that it is consistent with the proposed subcategory.

- D. **Size (AC Only).** If the acreage of the proposed AC category exceeds the size criteria for the applicable subcategory pursuant to Section 2.3.3.15, demonstrate that the amendment area is organized into one or more subareas meeting the criteria.

- E. **Planning and Urban Design Principles** – For amendments affecting 10 acres or more, provide documentation of how the Planning and Urban Design Principles will be addressed, pursuant to Section 6.2.6 and Countywide Planning Strategies Land Use Goal 16.0, together with the purpose, objectives, and professionally established best practices contained therein.

### **6.2.3.2 Additional Requirements for Tier II and Tier III Amendments.**

In addition to the submittal requirements of Section 6.1.3.2 and Section 6.2.3.1, Tier II and Tier III amendments to the Activity Center (AC), Multimodal Corridor (MMC) or Planned Redevelopment District (PRD) plan categories must include and address the items set forth below as part of the application, review, and approval process:

- A. **Pre-Application Meeting** – At least one pre-application coordinating conference with PPC staff will be required. The purpose of this meeting will be to discuss the review and approval process and to review the applicant’s proposed implementation plan to ensure that the strategies are met. After the conclusion of the meeting, PPC staff will provide meeting notes documenting topics covered, concerns/issues addressed, and any action steps agreed to with the applicant.
- B. **Transportation Impact Analysis** – Amendments affecting 10 acres or more must meet the requirements of Section 6.2.5.
- C. **Implementation Tools** – For each proposed AC, MMC or PRD designation, the applicant will enumerate any existing and proposed plan/code provisions (e.g., special area plan, current zoning designations, special zoning designations, design overlays, and/or other regulatory tools) that will be used to implement the Planning and Urban Design Principles. In addition, the applicant will be required to submit a proposed adoption schedule for any new policies and/or regulations that will be required for such implementation.
- D. **Subsequent Review of Implementation Tools** – Upon initial adoption of the provisions identified by the implementation tools (described in subsection C above) by the local government, the implementation ordinances will be submitted and reviewed under the provisions of Section 6.2.2, in fulfillment of and for compliance with the Countywide Plan Map amendment to which they correspond. Addition or elimination of permitted uses consistent with the corresponding Countywide Plan Map amendment shall not be considered new changes under the provisions of Section 6.2.2.

### **6.2.3.3 Additional Requirements for Tier III Applications.**

In addition to the submittal requirements of Section 6.1.3.2, Section 6.2.3.1, and Section 6.2.3.2, Tier III amendments to the Activity Center or Multimodal Corridor plan categories must include a Justification Narrative as to why the proposed amendment is consistent with the Countywide Plan.

The narrative must document the changes in conditions or other factors that warrant the proposed amendment, which could potentially include but are not limited to the following:

- A. **Improved transit facilities and service to the proposed Activity Center or Multimodal Corridor** – Improvements may include investment by PSTA in premium services that were not planned for during the most recent amendment of the Land Use Strategy Map, or a commitment by the applicant government to invest in multimodal infrastructure in the near term (5 to 15 years) that will quicken the evolution of the area into one that is transit-ready. These types of improvements will be coordinated closely with PSTA to ensure that they are consistent with the required standards for future premium transit.
- B. **Increases in population and/or employment densities not projected in adopted planning documents (MPO Long Range Transportation Plan, local comprehensive plans, etc.)** – These new increases in population and/or employment would need to be documented in an Economic Development Study that compares the new projections of population and/or employment to the projections contained in the MPO’s LRTP and the local comprehensive plans. The economic benefit from the increases in population and of employment would be quantified as well as the ability of the area to attract and absorb the increased population and/or employment over other similar developing areas.
- C. **Local government funding study for public infrastructure within the proposed Activity Center or Multimodal Corridor** – The funding study will include a detailed analysis of multimodal infrastructure needs within the study area, including the improvements identified in A. above and associated funding strategies to develop a financing plan that funds infrastructure projects within specific timeframes. The results of the Economic Development Study from B., if conducted, will be incorporated into the Funding Study.
- D. **Other unique conditions that would allow for consideration** – As an example, these conditions could include unique agreements or development partnerships that would create a significant opportunity for a more diverse development mix resulting in higher taxable values per acre and a more attractive mixed-use multimodal environment. The emphasis should be on getting both local government and development commitments needed to build unfunded multimodal projects build in the short- to mid-term within the subject area.

#### **SEC. 6.2.4 USE PROVISIONS.**

**6.2.4.1** The purpose of the Activity Center and Multimodal Corridor categories is to create areas of intensive residential density, nonresidential intensity, and mixed uses in conjunction with urban design that allows and encourages multimodal transportation, including pedestrian/bicycle circulation and transit use. Uses that do not support this purpose, as defined in Article 8 of these Countywide Rules, include:

- Storage/Warehouse/Distribution-Light and -Heavy;
- Commercial/Business Service Use; and
- Automobile-Oriented Retail Commercial Use.

An amendment adding one or more of these enumerated uses as a permitted use within an Activity Center or Multimodal Corridor, or within a character district, zoning district or subdistrict thereof, shall be classified as a Tier III amendment.

The enumerated uses may be permitted in the Planned Redevelopment District category in accordance with the Planning and Urban Design Principles. An amendment allowing one or more of these uses as a permitted use within a Planned Redevelopment District, or within a character district, zoning district or subdistrict thereof, shall be classified as a Tier II amendment.

**6.2.4.2** An amendment eliminating any of the following uses as a permitted use from an Activity Center, Multimodal Corridor, or Planned Redevelopment District, or from a character district, zoning district or subdistrict thereof, shall be classified as a Tier II amendment and reviewed against the provisions of Section 6.5.4.4:

- Manufacturing-Light, -Medium or -Heavy;
- Office; or
- Research/Development-Light or -Heavy.

**SEC. 6.2.5 TRANSPORTATION IMPACT ANALYSIS.**

An amendment adopting or amending the AC, MMC or PRD category and affecting 10 acres or more shall include the following transportation impact analysis:

- Calculate the average daily trips for the current land use category(ies) of the proposed AC, MMC or PRD category based on the acreage and traffic generation characteristics for each applicable category described in Section 2.3.3.
- Calculate the average daily trips for the proposed AC, MMC or PRD category based on the acreage and traffic generation characteristics for each applicable category described in Section 2.3.3, multiplied by 50%.
- If the proposed average daily trips calculated in (B) is smaller than the current average daily trips calculated in (A), then only the requirements of Section 6.2.3 must be met and no additional transportation assessment is required. If the proposed average daily trips is a larger number than the current average daily trips, then an additional transportation assessment will be required. This assessment will include the following steps:

1. Safety – Documentation of safety issues and concerns within the proposed AC, MMC or PRD category boundary will be required. This documentation will at a minimum include a review and analysis of automobile and bike/pedestrian crashes over the last five years, and a summary of any plans or programs that are being implemented to address safety issues.
  2. Roadway Level of Service – Documentation of existing level of services on roadways within and intersecting with the proposed AC, MMC or PRD category boundary.
  3. Net Trips Impact on Level of Service – Completion of a level of service analysis documenting the projected level of service and potential impacts resulting from the difference in trips between the existing land use category(ies) and the AC, MMC or PRD designation.
  4. Multimodal Facilities and Services – Documentation of existing multimodal facilities and services within and adjacent to the proposed boundary for the AC, MMC or PRD category. This includes sidewalks, crosswalks, trails, bike treatments or facilities, bus stops and associated amenities, bus terminals/transfer centers, and bus route services. Other amenities may include, but are not limited to streetscape, landscaping and buffering improvements. The documentation will also identify any gaps in sidewalk, bike lane, or trail networks and areas where bus stop pads are not connected to sidewalks within the AC, MMC or PRD category.
  5. Planned Improvements – Documentation of planned/programmed multimodal improvements that will serve the purpose of reducing automobile congestion. Documentation shall include estimated reduction in automobile congestion, as well as the funding source and timing of planned/programmed multimodal improvements.
- D. Local governments are strongly encouraged to coordinate fulfillment of the transportation assessment requirement, if applicable, with the provisions of the Pinellas County Mobility Plan, as implemented by the countywide Multimodal Impact Fee ordinance.

**SEC. 6.2.6 PLANNING AND URBAN DESIGN PRINCIPLES.**

For all Tier II and Tier III amendments to the Activity Center (AC), Multimodal Corridor (MMC) or Planned Redevelopment District (PRD) category, the applicant must provide an evaluation of Countywide Planning Strategies Land Use Goal 16.0, Planning and Urban Design Principles, together with the purpose, objectives, and professionally established best practices contained therein.

The local government evaluation shall include: 1) documentation that for each Planning and Urban Design Principle, the local government can satisfy the purpose and objectives

utilizing associated and necessary implementation initiatives (i.e., comprehensive plan policies, design guidelines, land development code amendments, etc.); and 2) documentation that each best practice was examined and determined to be applicable or not, and if not, demonstration that the purpose and objectives are being achieved through alternative means. At a minimum, this documentation will include narrative descriptions of how each of the Planning and Urban Design Principles will be addressed. Graphic illustrations of the implementation tools are strongly encouraged.

Documentation that the Planning and Urban Design Principles have been addressed shall be filed of record and used in determining the applicable tier for subsequent amendments to the AC, MMC, or PRD category as set forth in Section 6.2.2.

These review criteria addressing Planning and Urban Design Principles are in addition to and supplement the review criteria in Section 6.5.3, the Relevant Countywide Considerations.

Where a local government has made commitments to complete certain plans, programs, and initiatives to prove adherence to the Planning and Urban Design Principles, the commitments identified by the local government must be undertaken within five years of the approval of the plan amendment application. The local government shall request an extension of time if the commitments will not be implemented within the five year period. Such request for time extension shall be submitted to the PPC board who shall act on the local government request for time extension. A local government that does not meet its commitments for implementation within five years and does not obtain an extension will be found inconsistent with the Countywide Plan pursuant to Article 3 of these Countywide Rules.

## **SEC. 6.2.7 THE LAND USE STRATEGY MAP.**

**6.2.7.1 Locational Criteria.** The Land Use Strategy Map, located in the Countywide Plan Strategies as Figure 1, is an adopted policy document that provides guidance regarding proposed amendments to the Countywide Plan Map, by identifying those areas in the County most able to accommodate higher densities and intensities in coordination with transit service, other multimodal transportation, and other redevelopment factors, in concert with the MPO Long Range Transportation Plan.

Together with the eligible locations provided in Tables 2 and 4 of these Countywide Rules, the Land Use Strategy Map designates appropriate locations for Activity Center subcategories (including Urban Centers, Major Centers, Community Centers, and Neighborhood Centers) and Multimodal Corridor subcategories (including Premium Transit Corridors, Primary Corridors, Secondary Corridors, and Supporting Corridors).

Additional appropriate locations may be approved through the Countywide Plan Map amendment process, and once approved, shall be depicted on the Land Use Strategy Map. Where a more permissive subcategory is depicted on the Land Use Strategy Map, it shall supersede Tables 2 and 4.



**6.2.7.2** **Amendments to the Land Use Strategy Map.** Countywide Plan Map amendments creating a new Activity Center or Multimodal Corridor, or reclassifying an applicable subcategory, will trigger an amendment to the Land Use Strategy Map pursuant to the requirements of Section 7.8.3. The amendment to the Land Use Strategy Map will be processed concurrently with the Countywide Plan Map amendment.

The Land Use Strategy Map will also be amended as necessary following relevant changes to the long range transportation plan adopted by the Metropolitan Planning Organization, or to Pinellas Suncoast Transit Authority provision of service, as determined appropriate. The PPC Executive Director may initiate an amendment of the Land Use Strategy Map for this purpose pursuant to the provisions of Section 7.8.3.

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| <b>DIV. 6.3</b> | <b>COUNTYWIDE PLAN MAP AMENDMENTS / SPECIAL ACTION.</b> |
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With respect to any recommendation for an alternative compromise recommendation or request to continue, withdraw, resubmit, or modify an amendment to the Countywide Plan Map which has been submitted for consideration, the provisions as set forth following shall govern.

**SEC. 6.3.1** **ALTERNATIVE COMPROMISE RECOMMENDATION.**

Pursuant to Section 10(3)(b) of Chapter 2012-245, Laws of Florida, as amended, the PPC shall forward recommendations for Countywide Plan Map amendments to the applicant local government when said action by the PPC constitutes denial with an alternative compromise recommendation. The process for referral to and action by the governing body shall be as hereinafter set forth.

**6.3.1.1** The PPC shall transmit any such denial with an alternative compromise recommendation for amendment to the applicant local government within five days of action by the PPC.

**6.3.1.2** The applicant governing body shall consider the alternative compromise recommendation of the PPC at an official meeting of the governing body and take formal action to accept or reject the PPC recommendation. The governing body action to accept or reject the PPC recommendation shall be as is determined necessary by the governing body to lawfully accomplish such action, and in the form required by the PPC.

**6.3.1.3** The governing body action to accept or reject the PPC recommendation shall be transmitted to the PPC within forty-five days of receipt of the PPC recommendation, except as the governing body may require additional time to lawfully accomplish such action and shall request an extension as set forth below within the forty-five days.

**6.3.1.4** If the governing body accepts the recommendation of the PPC, and transmits said acceptance in the requisite form within the required forty-five days, or as same may be extended, the PPC staff shall advertise and notice the amended application for Countywide Plan Map amendment in accordance with Section 6.1.5.6 for public hearing

by the CPA, and forward the compromise amendment to the CPA with the PPC recommendation for approval.

**6.3.1.5** Upon approval of the alternative compromise amendment by the CPA, the local governing body shall conform the ordinance amending the local government future land use map with the action of the CPA on the alternative compromise amendment to the Countywide Plan Map.

**6.3.1.6** If the governing body does not accept the recommendation of the PPC as forwarded, or fails to take action in the requisite form or within the required forty-five days, or as same may be extended, the PPC staff shall advertise and notice the original application for Countywide Plan Map amendment in accordance with Section 6.1.5.6 for public hearing by the CPA, and forward the original application to the CPA with the PPC recommendation for denial.

**SEC. 6.3.2** **CONTINUATION.**

A request to continue an amendment to the Countywide Plan Map, once formally submitted, shall be in writing by an authorized representative of the local government with jurisdiction. Such request for continuation may be submitted to the PPC at, or prior to, the applicant local government's opening statement to the PPC, ~~and must state a future date for consideration.~~ The PPC shall review such request for continuation, consistent with the public purpose and intent of these Countywide Rules and their enabling legislation, and if approved, ~~shall~~ may reschedule the public hearing on the application for amendment to a specified future date. A request for continuation may also be submitted to the CPA subsequent to the PPC action, at or prior to the applicant local government's opening statement to the CPA, ~~and must state a future date for consideration.~~ The CPA shall review such request for continuation, consistent with the public purpose and intent of these Countywide Rules and their enabling legislation, and if approved, ~~shall~~ may reschedule the public hearing on the application for amendment to a specified future date. If not rescheduled to a specified future date, the public hearing must be readvertised pursuant to the requirements of Section 7.8.4.

Nothing herein shall be construed to prohibit the PPC or CPA from continuing a public hearing at any time in the course of the proceeding, consistent with the public purpose and intent of these Countywide Rules and their enabling legislation.

Nothing herein shall prevent the CPA from continuing its hearing and requesting the PPC to rehear, clarify, or explain its initial action.

**SEC. 6.3.3** **WITHDRAWAL.**

~~A request to withdraw~~ Withdrawal of an application for an amendment to the Countywide Plan Map, once formally submitted, shall be in writing by an authorized representative of the local government with jurisdiction. ~~Such request for withdrawal may be submitted~~ The withdrawal shall be reported to the PPC at, or prior to, the

applicant local government’s opening statement to the PPC, and, ~~upon recommendation to accept the request for withdrawal by the PPC, the request for withdrawal~~ shall be forwarded to the CPA ~~for their consideration~~. A ~~request for~~ withdrawal may also be submitted to the CPA subsequent to PPC action, at or prior to the applicant local government’s opening statement to the CPA. ~~Acceptance of the request for~~ ~~w~~Withdrawal of an application for amendment ~~by the CPA~~, shall remove the application for amendment from further consideration.

**SEC. 6.3.4**     **RESUBMISSION.**

No Countywide Plan Map amendment denied by the CPA shall be resubmitted for consideration by the PPC within six months of the date of denial; except where denial is “without prejudice,” which shall allow an application, as previously submitted, to be resubmitted without limitation as to the six month restriction. Any such resubmitted application shall be treated pursuant to, and meet the requirements of, Section 6.1.1.

**SEC. 6.3.5**     **MODIFICATION.**

Any request by a local government to modify an amendment to the Countywide Plan Map shall require the original amendment to be withdrawn as set forth in Section 6.3.3, and the modified amendment to be submitted as for a new amendment, as required in Section 6.1, including action by the applicant governing body as required in Sections 6.1.1, 6.1.2, and 6.1.3 to initiate the modified amendment, and consideration and recommendation by the PPC after public hearing.

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| <b>DIV. 6.4</b> | <b>COUNTYWIDE PLAN MAP AMENDMENTS / ECONOMIC DEVELOPMENT – EXPEDITED REVIEW.</b> |
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**SEC. 6.4.1**     **PURPOSE.**

It is the purpose of this expedited review process to recognize and provide for amendments of the Countywide Plan Map that result from economic development projects that have been certified by the Governor’s Office of Tourism, Trade, and Economic Development pursuant to Senate Bill 1154.

**SEC. 6.4.2**     **PROCEDURE.**

The procedure for expedited Countywide Plan Map amendments shall be conducted in accordance with the requirements of Division 6.1 and the process outlined herein.

**6.4.2.1**     **Notice and Public Hearing.** All expedited amendments shall be advertised, noticed and considered at a public hearing as required under Division 7.8. The advertisement, notice and public hearing will identify amendments to be considered under this expedited process. A single published advertisement and requisite personal notice for all expedited amendment actions shall be provided which shall include notice of both the PPC and CPA public hearings.

**6.4.2.2**      **Submission Requirements.** In addition to the application items in Section 6.1.3.2, all local government submittals of an expedited amendment shall include: 1) copy of the recommendation of the governing body for expedited review; 2) copy of the certificate of eligibility from the Governor’s Office of Tourism, Trade and Economic Development; and 3) copy of the finalized 90 day time schedule negotiated between the local government and the state, incorporating all deadlines, including public meetings and notices.

**6.4.2.3**      **Action by PPC and CPA.** The PPC and CPA shall act upon an expedited amendment within the finalized 90 day time schedule established between the local government and the State for the subject property.

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| <b>DIV. 6.5</b> | <b>COUNTYWIDE PLAN MAP AMENDMENTS / CRITERIA AND ADDITIONAL PROCEDURES.</b> |
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**SEC. 6.5.1**      **PURPOSE.**

It is the purpose of this amendment review process to recognize and provide for amendments of the Countywide Plan Map that do not otherwise qualify as subthreshold amendments, but that do impact Relevant Countywide Considerations.

**SEC. 6.5.2**      **PROCEDURE.**

The procedure for Countywide Plan Map amendments shall be conducted in accordance with the requirements of Division 6.1.

**SEC. 6.5.3**      **REVIEW CRITERIA.**

**6.5.3.1**      **Relevant Countywide Considerations.** In the consideration of a Countywide Plan Map amendment, it is the objective of these Countywide Rules to evaluate the amendment so as to make a balanced legislative determination based on the following seven Relevant Countywide Considerations, as they pertain to the overall purpose and integrity of the Countywide Plan.

**6.5.3.1.1**      **Consistency with the Countywide Rules.** The manner in, and extent to, which the amendment is consistent with the Countywide Rules and with the Countywide Plan Strategies as implemented through the Countywide Rules.

**6.5.3.1.2**      **Transportation Impacts.** For amendments not involving the Activity Center (AC), Multimodal Corridor (MMC) and Planned Redevelopment District (PRD) categories, the manner in, and extent to, which the amendment significantly impacts a roadway segment where the existing Level of Service (LOS) is below LOS “D” or where projected traffic resulting from the amendment would cause the existing LOS to fall below LOS “D.” An amendment adopting or amending the AC, MMC or PRD category is subject to the requirements of Section 6.2.5.

- 6.5.3.1.3**     **Scenic/Noncommercial Corridors.** If located within a Scenic/Noncommercial Corridor, the manner in, and extent to, which the amendment conforms to the criteria and standards contained in Section 6.5.4.1 of these Countywide Rules.
- 6.5.3.1.4**     **Coastal High Hazard Areas (CHHA).** If located within a Coastal High Hazard Area, the manner in, and extent to, which the amendment conforms to the terms set forth in Section 4.2.7.
- 6.5.3.1.5**     **Activity Center, Multimodal Corridor, and Planned Redevelopment District Plan Categories.** If the amendment involves the creation, expansion, contraction of, or substantive change to the Activity Center, Multimodal Corridor, or Planned Redevelopment District category, the manner in, and extent to, which the amendment conforms to the purpose and requirements of the applicable category, and addresses the relevant Planning and Urban Design Principles described in Section 6.2.6 and Land Use Goal 16.0 of the Countywide Plan Strategies.
- 6.5.3.1.6**     **Impact on a Public Educational Facility or an Adjoining Jurisdiction.** The manner in, and extent to, which the amendment significantly impacts a public educational facility or an adjoining jurisdiction.
- 6.5.3.1.7**     **Reservation of Industrial Land.** If the amendment involves the conversion from the Employment (E), Industrial (I), or Target Employment Center (TEC) category, the extent to which the amendment area can continue to provide for target employment opportunities as evaluated and set forth in Section 6.5.4.5.

**SEC. 6.5.4**     **SPECIAL RULES.**

**6.5.4.1**       **Scenic/Noncommercial Corridors.**

**6.5.4.1.1**     Designated Scenic/Noncommercial Corridors, as set forth in these Countywide Rules and depicted on the Countywide Plan Map, shall be deemed to have countywide significance and will be recognized as Scenic/Noncommercial Corridors, consistent with the Scenic/Noncommercial Corridor Plan Element of the Countywide Plan.

**6.5.4.1.2**     The intent and purpose of the Scenic/Noncommercial Corridor designation is to guide the preservation and enhancement of scenic qualities, to ensure the integrity of the Countywide Plan Map, and to maintain and enhance the traffic operation of these especially significant roadway corridors in Pinellas County.

The principal objectives of Scenic/Noncommercial Corridor designations are:

- A. To preserve and enhance scenic qualities found along these corridors and to foster community awareness of the scenic nature of these corridors.

- B. To encourage superior community design and enhanced landscape treatment, both outside of and within the public right-of-way.
- C. To encourage land uses along these corridors which contribute to an integrated, well planned and visually pleasing development pattern, while discouraging the proliferation of commercial, office, industrial, or intense residential development beyond areas specifically designated for such uses on the Countywide Plan Map.
- D. To assist in maintaining the traffic operation of roadways within these corridors through land use type and density/intensity controls, and by conformance to access management regulations, by selective transit route location, and by the development of integrated and safe pedestrian and bicycle access systems.
- E. To encourage design standards identified within the Pinellas County Countywide Scenic/Noncommercial Corridor Master Plan, through the adoption of local ordinances and regulations consistent with those standards set forth within the Master Plan.

Amendments to certain Countywide Plan Map categories shall be subject to locational and use limitations as specified in Section 6.5.4.1.4, Table 10.

It is the intent of this provision to discourage the proliferation of nonresidential use and to monitor any increase in the density/intensity on a SNCC. Proposed map amendments allowing higher density and/or intensity on a parcel identified as within a Future Transit Corridor on the Land Use Strategy Map, and also within a Scenic/Noncommercial Corridor as indicated on the Scenic/Noncommercial Corridor Map, will be discouraged unless located within either a mixed-use node or an enhancement connector on the Scenic/Noncommercial Corridor Map.

**6.5.4.1.3** Delineation of Scenic/Noncommercial Corridors shall be as follows:

- A. Corridors shall be as set forth herein and as depicted on the Countywide Plan Map and Submap No. 1 entitled Countywide *Scenic/Noncommercial Corridor Map*, including:

“Primary” Scenic/Noncommercial Corridors:

- Keystone Road from US 19 to Hillsborough County Line
- Alderman Road from US Alternate 19 to Fish Hatchery Road
- Tampa Road from US Alternate 19 to East Lake Woodlands Parkway
- Curlew Road from US Alternate 19 to McMullen-Booth Road
- CR-1/Keene Road from Alderman Road to East Bay Drive
- Belcher Road from Klosterman Road to 38th Avenue North
- McMullen-Booth Road/East Lake Road from Pasco County Line to SR-60
- 102nd Avenue North/Bryan Dairy Road from Oakhurst Road to Belcher Road
- Pinellas County Bayway from Gulf Boulevard to U.S. 19/I-275
- 113th Street/Ridge Road from West Bay Drive to Madeira Beach Causeway

- Park Street from Park Boulevard to Central Avenue
- Tyrone Boulevard from 113th Street North to Park Street

“Unique” Scenic/Noncommercial Corridors:

- Edgewater Drive from Scotland Street (Dunedin) to Sunset Point Road
- Bayshore Drive from Main Street (Safety Harbor) to SR-60
- Courtney Campbell Parkway (Causeway) from McMullen-Booth Road/Bayside Bridge (49th Street Bridge) to Hillsborough County Line
- Dunedin Causeway from Honeymoon Island Park to east approach
- Memorial Causeway and its approaches
- Bayside Bridge (49th Street Bridge) and its approaches
- Gandy Bridge approach to Hillsborough County Line
- Howard Frankland Bridge (I-275) approach to Hillsborough County Line
- Belleair Causeway and its approaches
- Park Boulevard Bridge and its approaches
- Treasure Island Causeway and its approaches
- Pinellas Bayway (SR-679) from Fort DeSoto Park to Pinellas County Bayway (SR-682)
- Sunshine Skyway Bridge (I-275) approach to Hillsborough County line

- B. All corridors or portions (segments) thereof shall be classified as either Rural/ Open Space, Residential, Mixed Use, Unique/Scenic View, or Enhancement Connector as identified on the Scenic/Noncommercial Corridor Map, as approved and as it may be subsequently amended. Corridor subclassifications are intended to be consistent with the corresponding approved Countywide Plan Map categories as enumerated in the Scenic/Noncommercial Corridor Plan Element. Upon amendment of the Countywide Plan Map adjacent to a Scenic/Noncommercial Corridor, the Corridor Subclassification (and all standards which apply) shall be changed concurrently to be consistent with the amended Countywide Plan Map categories. Specifically, any amendment of the Countywide Plan Map adjacent to a Scenic/Noncommercial Corridor will include, as a function of that amendment, any requisite change to the Corridor Subclassification and said change will be reflected on Submap No. 1 concurrent with the effective date of the Countywide Plan Map amendment, except as specifically provided for herein.

The PPC and CPA shall have the authority to grant exceptions to the concurrent change to the Corridor Subclassification, as reflected on Submap No. 1, upon approval of an amendment to the Countywide Plan Map adjacent to a Scenic/Noncommercial Corridor, based upon a finding that:

1. The size and configuration of the amendment is *de minimus* in relationship to its frontage on the affected Scenic/Noncommercial Corridor; or
2. The size and configuration of the amendment is *de minimus* in relationship to the length of the affected Scenic/Noncommercial Corridor; or

3. The size and location of the amendment is consistent in relationship to the surrounding existing Countywide Plan Map designations.
- C. Corridor width shall be determined, considering the depth of each land use which abuts or functionally relates to the roadway right-of-way, from a land use, visual or traffic operations standpoint, generally to a depth of 500 feet (measured from the right-of-way that is required to implement the current MPO Long Range Transportation Plan). The 500-foot distance may be expanded or diminished at the discretion of the Pinellas Planning Council and Countywide Planning Authority for the purpose of reviewing amendments to the Countywide Plan Map only where exceptional circumstances warrant, based upon, but not limited to, the following considerations:
1. The distance to and sight-line for a particular scenic view or visual characteristic;
  2. Access from the property in question to the Scenic/Noncommercial Corridor and its relationship thereto; and
  3. The location and degree to which any man-made structure or natural feature interrupts or precludes a view or visual relationship from the roadway.

#### **6.5.4.1.4**

The following criteria shall be considered by the Pinellas Planning Council and Countywide Planning Authority, in concert with other consistency and amendment criteria, in the review of an application by local government for amendment of the Countywide Plan Map on a Scenic/Noncommercial Corridor:

- A. Countywide Plan Map Consistency - The extent to which the local government request is consistent with the following Table 10, *Countywide Plan Map/SNCC Classification Consistency*. Nothing in these consistency guidelines shall preclude a local government from being more restrictive, i.e., to determine that a particular category shall not be considered consistent with a particular corridor subclassification, irrespective of provision for same in Table 10.
- B. Considerations by Countywide Plan Map Category
  1. With respect to a Residential Countywide Plan Map category, the extent to which the local government request discourages the intensification of residential use on a Scenic/Noncommercial Corridor. In particular, an amendment to the Countywide Plan Map to increase residential density shall be discouraged, except where such amendment is determined to be consistent with the existing delineation of Countywide Plan Map categories, adjoining existing use, and the purpose and intent of the Scenic/Noncommercial Corridor Plan Element as applied through these Countywide Rules and the otherwise applicable amendment process.



2. With regard to the Office, Resort, Retail & Services, Employment, or Industrial Countywide Plan Map categories:
  - a. The extent to which the local government request discourages nonresidential uses on a Scenic/Noncommercial Corridor. In particular, amendment to the Countywide Plan Map to allow a new or expanded Office, Resort, Retail & Services, Employment, or Industrial category shall be discouraged, except where such amendment is:
    - i. the logical in-fill, extension or terminus of an existing nonresidential category; and
    - ii. the logical in-fill, extension or terminus of an adjoining existing nonresidential use; and
    - iii. considered in relationship to the existing delineation of surrounding categories on the Countywide Plan Map and Corridor Subclassification(s); and
    - iv. consistent with the purpose and intent of the Scenic/Noncommercial Corridor Plan Element, as applied through these Countywide Rules and the otherwise applicable amendment process.
  - b. The extent to which the local government request minimizes any increase in density/intensity on a Scenic/Noncommercial Corridor. Specifically, in reviewing any application for nonresidential use on a Scenic/Noncommercial Corridor, the proposed density/intensity of use as measured by dwelling units per acre, floor area ratio and impervious surface ratio, as is applicable, shall be considered with the objective of not exceeding the density/intensity of either the adjoining nonresidential uses or the mid-point of the range for the density/intensity standards of the applicable category, whichever is less.
  - c. The adoption of local government land development regulations that implement the use restrictions for specified future land use categories as identified in Section 6.5.4.1.4, Table 10.

**Table 10**  
**Countywide Plan Map/SNCC Classification Consistency<sup>1</sup>**

| <b>Countywide Plan Map Designation</b> | <b>Rural/Open Space</b> | <b>Residential</b> | <b>Mixed Use</b> | <b>Unique Scenic View</b> | <b>Enhancement Connector</b> |
|--|-------------------------|--------------------|------------------|---------------------------|------------------------------|
| Residential Rural (RR)                 | C                       | C                  | C                |                           | C                            |
| Residential Very Low (RVL)             | C                       | C                  | C                |                           | C                            |
| Residential Low Medium (RLM)           |                         | R <sup>2</sup>     | C                |                           | C                            |
| Residential Medium (RM)                |                         | R <sup>2</sup>     | C                |                           | C                            |
| Residential High (RH)                  |                         |                    | C                |                           | C                            |
| Office (O)                             |                         |                    | C                |                           | C                            |
| Resort (R)                             |                         |                    | C                |                           | C                            |
| Retail & Services (R&S)                |                         |                    | R <sup>3</sup>   |                           | C                            |
| Employment (E)                         |                         |                    | R <sup>3</sup>   |                           | C                            |
| Industrial (I)                         |                         |                    |                  |                           | C                            |
| Public/Semi-Public (P/SP)              |                         | C                  | C                |                           | C                            |
| Recreation/Open Space (R/OS)           | C                       | C                  | C                | C                         | C                            |
| Preservation (P)                       | C                       | C                  | C                | C                         | C                            |
| Target Employment Center (TEC)         |                         |                    | C                |                           | C                            |
| Activity Center (AC)                   |                         |                    | C                |                           | C                            |
| Multimodal Corridor (MMC)              |                         |                    | C                |                           | C                            |
| Planned Redevelopment District (PRD)   |                         |                    | C                |                           | C                            |

Notes:

- <sup>1</sup> A “C” indicates that an amendment to the Countywide Plan Map category is potentially consistent, subject to all other applicable criteria, with the corresponding SNCC Classification. An “R” indicates that the amendment to the Countywide Plan Map category is potentially consistent subject to specified use restrictions. The absence of either a “C” or an “R” indicates that the Countywide Plan Map category is not considered compatible with the SNCC Classification, unless a specific finding to the contrary is made in accordance with Sec. 6.5.4.1.3 B. Category and/or use restrictions apply only to new Countywide Plan Map amendments after August 7, 2015 and are not retroactive.
  - <sup>2</sup> Office, personal service/office support, and retail commercial uses are restricted to the mixed use and enhancement connector SNCC classifications.
  - <sup>3</sup> Manufacturing-Medium and Incinerator Facility uses are restricted to the enhancement connector SNCC classification.
3. With respect to the Public/Semi-Public, Recreation/Open Space, and Preservation Countywide Plan Map categories, the extent to which the local government request provides for Public/Semi-Public, Recreation/Open Space, and Preservation categories consistent with the character, intensity, and scale of the uses permitted within these respective categories in relation to the existing delineation of Countywide Plan Map categories, adjoining existing use, the need for and service area of the public/semi-public, recreation/open space, and preservation use, and the purpose and intent of the Scenic/Noncommercial Corridor Plan Element, as applied through these Countywide Rules and the otherwise applicable amendment process.

4. Activity Center and Multimodal Corridor Countywide Plan Map Categories that are required to address the relevant Planning and Urban Design Principles, described in Section 6.2.6 and Land Use Goal 16.0 of the Countywide Plan Strategies, shall be evaluated for how the local government request minimizes any increase in density/intensity on a Scenic/ Noncommercial Corridor.
- C. The extent to which the local government request has taken into account the Scenic/Noncommercial Corridor Plan Element, including the goals, objectives, and policies articulated within the Plan Element, as is relevant to the particular amendment under consideration. Consistent with its advisory nature, the Scenic/Noncommercial Corridor Plan Element shall not serve as a basis for denial of an amendment.
  - D. The extent to which the local government request has taken into account the current MPO Long Range Transportation Plan, and any enhanced access management standards, as is relevant to the particular roadway under consideration. Particular consideration shall be given to the established policies of the governmental entity having construction and maintenance responsibility over the subject facility.

#### **6.5.4.2 Public Educational Facility Siting.**

**6.5.4.2.1** It is the intent and purpose of this section to provide for and encourage compliance with Section 1013.33, Florida Statutes (F.S.), regarding coordination of educational facilities planning with local governing bodies, in a uniform and consistent manner.

**6.5.4.2.2** These Countywide Rules provide for an exception for Public Educational Facilities to the otherwise applicable acreage threshold limitation for Institutional uses in the Residential Rural, Residential Very Low, Residential Low Medium, Residential Medium, Residential High, and Office categories.

**6.5.4.2.3** In furtherance of the objectives of Section 1013.33, F.S., a Public Schools Interlocal Agreement has been developed for utilization by the Pinellas County School Board and local governments. This Interlocal Agreement provides for an alternative process as authorized under Section 1013.33, F.S., and locational review criteria that foster a uniform approach to public school siting throughout Pinellas County.

#### **6.5.4.4 Conversion Criteria for Employment-Related Categories and Uses.**

Having identified the importance of reserving industrial land in Pinellas County, the Pinellas Planning Council (PPC) and the Countywide Planning Authority (CPA) shall utilize the following criteria to evaluate:

- A. A Countywide Plan Map amendment that converts land now designated Employment, Industrial, or Target Employment Center to some other Countywide Plan Map category; or

B. For lands designated as Activity Center, Multimodal Corridor, or Planned Redevelopment District on the Countywide Plan Map:

- i1. A local future land use map (FLUM) amendment that converts a category corresponding to Employment, Industrial, or Target Employment Center, as determined pursuant to Section 4.2.2.1, to some other local FLUM category; or
- ii2. An amendment to the implementing plan/code provisions, adopted pursuant to Section 6.2.3.2, that eliminates Manufacturing, Office, or Research/Development as a permitted use.

In the consideration of such amendments, the PPC and CPA shall make a determination, based upon a balancing of the following criteria, as they pertain to the overall purpose and integrity of the Countywide Plan:

**1. Target Employment Opportunities**

The extent to which the uses within the proposed category can potentially provide target employment opportunities, as compared to those that can potentially be available within the current Employment, Industrial, Target Employment Center, or corresponding FLUM category.

**2. Amendment Site Characteristics**

Under the current or proposed category, the extent to which the site can continue to support target employment uses due to the site's size, configuration, and physical characteristics, and is able to accommodate the provision of site access, loading, and other necessary site improvements.

The extent to which the proposed site will be, or is now, used for unique and high-priority functions, such as water-dependent or working waterfront uses.

**3. Amendment Area Characteristics**

The extent to which the uses within the current or proposed category relate to surrounding and nearby uses and plan classifications, including their compatibility with such uses and plan classifications.

The extent to which industrial uses can benefit from or provide benefit to, adjoining or nearby properties.

The extent to which the proposed site will be used for unique and high-priority functions, including, but not limited to, transit-oriented uses.

#### **4. Supporting Transportation and Infrastructure Characteristics**

The location of the property in relationship to, and the current or proposed uses' need for, access to the arterial and interstate highway network, transit, international airport, and functional rail line, as well as other infrastructure and service facilities, including water, sewer, stormwater, and parking, and their respective capacities.

#### **5. Supporting Redevelopment Plans, Special Area Plans, or Planning and Urban Design Principles Implementation Framework**

The extent to which any amendment is included as part of a community redevelopment plan, special area plan, or Planning and Urban Design Principles implementation framework pursuant to Section 6.2.6 that has evaluated and addressed the potential to support target employment uses in the redevelopment area proposed to be reclassified from an Employment, Industrial, Target Employment Center, or corresponding FLUM designation.

**ARTICLE 7**

**COUNTYWIDE PLAN MAP AND**  
**COUNTYWIDE RULES ADMINISTRATION**

**DIV. 7.1 GENERAL PROVISIONS.**

**SEC. 7.1.1 COMPLIANCE.**

**7.1.1.1** All local government future land use plans and land development regulations shall be consistent with the Countywide Plan, inclusive of the Countywide Rules. Subsequent to any amendment to the Countywide Rules, all local governments shall have one (1) year to amend their future land use plan and/or land development regulations as may be necessary to become consistent with the amended Countywide Rules. Such local government plan and/or regulation amendments shall be processed according to the terms contained in Article 3 herein.

**7.1.1.2** Any local future land use plan and land development regulations determined to be inconsistent with the Countywide Plan, inclusive of the Countywide Rules, is subject to enforcement pursuant to Division 7.7.

**SEC. 7.1.2 MORE RESTRICTIVE LOCAL PLANS/REGULATIONS.**

Local governments may enact and enforce more detailed and more restrictive comprehensive plans and land development regulations than the Countywide Plan, inclusive of the Countywide Rules.

**SEC. 7.1.3 TRAFFIC GENERATION CHARACTERISTICS.**

**7.1.3.1** **Utilization of Traffic Generation Characteristics.** The traffic generation characteristics contained in each category will be utilized to review Countywide Plan Map amendments for that category. Nothing herein shall preclude an applicant local government from submitting additional traffic generation data based on local government concurrency management standards or site specific conditions as part of an application for Countywide Plan Map amendment.

**7.1.3.2** **Traffic Studies.** A third party traffic impact study may be completed by the local government requesting the amendment, or by a qualified professional engineer or planner selected by the applicant.

The third party responsible for completing the study shall attend a methodology meeting with the MPO and PPC staffs to discuss the reason for the study, study submittal requirements, and to obtain closure on all issues pertaining to the study. The responsible third party shall submit a methodology letter to the MPO and PPC staffs documenting the items discussed and agreements reached at the meeting, and prepare the study according to such discussion and agreements.

The submittal requirements for the study are as follows:

1. Table of Contents, including reference to all sections, tables, figures, and appendices, as appropriate;

2. Summary of relevant findings and recommendations;
3. The main report narrative, including, as appropriate, tables and figures, and a summary of all field data; and
4. Report appendices, as appropriate, including detailed information concerning field data.

The process for MPO and PPC review of third party traffic impact studies, including dispute resolution, shall be according to the steps set forth in the current Metropolitan Planning Organization *Traffic Impact Study Methodology*.

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| <b>DIV. 7.2      PLANNERS ADVISORY COMMITTEE.</b> |
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Directors of individual local government land use and planning departments, or their designees, shall be members of the Planners Advisory Committee (PAC). The PAC may also include a representative from the planning departments maintained by the Pinellas County School Board, the Pinellas Suncoast Transit Authority, the Florida Department of Transportation, and other agencies as the council may determine appropriate. The PAC may, at the direction of the PPC, perform a professional planning review of such PPC staff recommendations as are to be acted on by the PPC and such other duties assigned to it by the PPC, consistent with the provisions of Section 7(2), Chapter 2012-245, Laws of Florida, as amended.

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|---------------------------------------|
| <b>DIV. 7.3      INTERPRETATIONS.</b> |
|---------------------------------------|

**SEC. 7.3.1      AUTHORITY.**

The Executive Director shall have the authority to make all interpretations of the text of the Countywide Plan, including the Countywide Plan Strategies, the Countywide Plan Map, these Countywide Rules, and the boundaries of land use categories on the Countywide Plan Map.

**SEC. 7.3.2      INITIATION.**

An interpretation may be requested from the Executive Director by any local government, the PPC, or the CPA.

**SEC. 7.3.3      PROCEDURES.**

**7.3.3.1      Submission of Request for Interpretation.** Requests for interpretation shall be submitted in writing to the Executive Director.



**7.3.3.2**      **Determination of Completeness.** Within five (5) days after a Request for Interpretation has been received, the Executive Director shall determine whether the request is complete. If the Executive Director determines that the request is not complete, written notice shall be provided to the applicant specifying the deficiencies. The Executive Director shall take no further action on the Request for Interpretation until the deficiencies are remedied.

**7.3.3.3**      **Rendering of Interpretation.** Within thirty (30) days after the Request for Interpretation has been determined complete, the Executive Director shall review and evaluate the request in light of the Countywide Plan, including the Countywide Plan Strategies, the Countywide Plan Map, and these Countywide Rules, and render an interpretation. The Executive Director may consult with Legal Counsel for the PPC.

**SEC. 7.3.4**      **FORM.**

The interpretation shall be in writing and shall be sent to the applicant.

**SEC. 7.3.5**      **OFFICIAL RECORD.**

The Executive Director shall maintain an official record of all interpretations in the PPC Offices. The official record shall be available for public inspection during normal business hours. A copy of any official interpretation shall be transmitted to each local government for their information and records.

**SEC. 7.3.6**      **APPEAL OF INTERPRETATION.**

**7.3.6.1**      **Appeal to PPC.** Within thirty (30) days after issuance of a written interpretation by the Executive Director, the applicant may appeal the interpretation to the PPC. The PPC shall hold a public meeting on the appeal and shall consider the interpretation of the Executive Director and public testimony in light of the Countywide Plan Strategies, these Countywide Rules, and pertinent laws, whichever is applicable. The PPC may adopt the Executive Director's interpretation, with or without modifications or conditions, or reject the interpretation. Any such interpretation by the PPC must be supported by substantial competent evidence, and be consistent with the Countywide Plan Strategies, these Countywide Rules, or pertinent laws, whichever is applicable.

**7.3.6.2**      **Appeal to CPA.** Within thirty (30) days after the decision of the PPC, the applicant may appeal the interpretation to the CPA. The CPA shall hold a public hearing on the appeal and shall consider the interpretation of the Executive Director, the PPC, and public testimony in light of the Countywide Plan Strategies, these Countywide Rules, and pertinent laws, whichever is applicable. The CPA may adopt the PPC's interpretation, with or without modifications or conditions, or reject its interpretation. Any interpretation by the CPA must be supported by substantial competent evidence and be consistent with the Countywide Plan Strategies, these Countywide Rules, or pertinent laws, whichever is applicable.

**SEC. 7.3.7 RULES OF INTERPRETATION.**

**7.3.7.1 Generally.** In construction and interpretation of the language of the Countywide Plan, including the Countywide Plan Strategies, the Countywide Plan Map, and these Countywide Rules, the rules established in this division shall be observed unless such construction would be inconsistent with Chapter 2012-245, Laws of Florida, as amended, as expressed in said statute, any ordinances or resolutions adopted thereunder, the Countywide Plan, or an element or portion thereof, or Chapters 163, Part II, and 186, Florida Statutes, as applicable. The rules of interpretation and definitions established herein shall not be applied to any express provisions excluding such interpretation or construction, or where the subject matter or context of such section is repugnant thereto.

All provisions, terms, phrases and expressions contained in these rules shall be liberally construed in order that the true intent and meaning of the PPC and CPA may be fully carried out. Terms used in these Countywide Rules, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this State for the same terms.

In the interpretation and application of any provision of these Countywide Rules, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of these Countywide Rules, the Countywide Plan Strategies, or any other law or regulation in effect in incorporated or unincorporated Pinellas County, Florida, imposes greater restrictions upon the subject matter than any other provision of these Countywide Rules, the Countywide Plan Strategies, or any other law or regulation in effect in the incorporated or unincorporated Pinellas County, Florida, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

In all circumstances, the provisions of these Countywide Rules shall be interpreted and construed to be consistent with the Countywide Plan and Chapter 2012-245, Laws of Florida, as amended. These Countywide Rules are not required to comply with Chapter 163, Part II, F.S., but shall not conflict therewith. Where any provision(s) of these Countywide Rules are determined to be in conflict with Chapter 2012-245, Laws of Florida, as amended, or Chapter 163, Part II, F.S., the applicable provisions of these respective laws shall control.

**7.3.7.2 Text.** In case of any difference of meaning or implication between the text of the Countywide Plan Strategies, or these Countywide Rules, and any figure, the text shall control.

**7.3.7.3 Computation of Time.** The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

**7.3.7.4 Day.** The word “day” shall mean a calendar day.

- 7.3.7.5**      **Delegation of Authority.** Whenever a provision appears which requires or designates the Executive Director or some other PPC officer or employee to do some act or perform some duty, it shall be construed to authorize the Executive Director or other officer or employee to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
- 7.3.7.6**      **Gender.** Words importing the masculine gender shall be construed to include the feminine and neuter.
- 7.3.7.7**      **Month.** The word “month” shall mean 30 calendar days, unless a calendar month is indicated.
- 7.3.7.8**      **Nontechnical and Technical Words.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- 7.3.7.9**      **Number.** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.
- 7.3.7.10**     **Shall, May.** The word “shall” is mandatory; “may” is permissive.
- 7.3.7.11**     **Tense.** Words used in the past or present tense include the future as well as the past or present.
- 7.3.7.12**     **Week.** The word “week” shall be construed to mean seven (7) calendar days.
- 7.3.7.13**     **Written or In Writing.** The term “written” or “in writing” shall be construed to include any representation of words, letters or figures whether by printing or other form or method of writing.
- 7.3.7.14**     **Year.** The word “year” shall mean 365 calendar days, unless a fiscal year is indicated, or unless a calendar year is indicated.

**SEC. 7.3.8**      **RULES FOR INTERPRETATION OF THE COUNTYWIDE PLAN MAP AND COUNTYWIDE PLAN MAP BOUNDARIES.**

Interpretations regarding the Countywide Plan Map or the boundaries of categories on the Countywide Plan Map shall be made by the Executive Director based on the official Countywide Plan Map and in accordance with the provisions of this section. The official record shall govern in the event of any discrepancy between the official action taken by the PPC and CPA and the printed Countywide Plan Map.

- 7.3.8.1** **Category Rules Extend to all Portions of Category Surrounded by Boundaries.** Except as otherwise specifically provided, a category symbol, color or name shown within category boundaries on the Countywide Plan Map indicates that category regulations pertaining to the category extend throughout the whole area surrounded by the boundary line. The official Countywide Plan Map shall be the final determinant of Countywide Plan Map category boundaries.
- 7.3.8.2** **Interpretation.** Where uncertainty exists as to the boundaries of land use categories as shown on the Countywide Plan Map, the following rules shall apply:
- 7.3.8.2.1** Boundaries indicated as approximately following dedicated streets, highways, alleys, or rights-of-way shall be construed as following the lot or parcel lines of the property adjacent to such right-of-way. In case of a street vacation, the boundary shall be construed as moving with the ownership.
- 7.3.8.2.2** Boundaries indicated as approximately following lot lines, public property lines, and the like shall be construed as following such lines. In the event of street vacation, interpretation shall be as provided in Sec. 7.3.8.2.1.
- 7.3.8.2.3** Boundaries indicated as approximately following city or county limits shall be construed as following such city or county limits.
- 7.3.8.2.4** Boundaries indicated as following physical features other than those listed above shall be construed as following such physical features, except as such may be more specifically determined by survey.
- 7.3.8.2.5** Distances not specifically indicated on the Countywide Plan Map shall be determined by the scale of the map on the page of the map showing the property in question.
- 7.3.8.3** **Transportation Facilities.** All existing highways and nonvehicular rights-of-way and easements shall be as depicted on the Countywide Plan Map. All proposed highways and nonvehicular rights-of-way and easements depicted on the Countywide Plan Map may be generalized and the current Metropolitan Planning Organization Long Range Transportation Plan shall be determinative of all proposed highway facility locations, classifications, and rights-of-way.
- 7.3.8.4** **Map Adjustment Consistent with Boundary Interpretation.** ~~Preservation and Recreation/Open Space Areas-~~The Preservation and Recreation/Open Space categories, ~~as~~ depicted on the Countywide Plan Map, as well as submerged lands and drainage detention areas which may have no Countywide Plan Map designation, ~~frequently denote and~~ are intended to delineate natural ~~and physical~~ characteristics that may change over time, or may be altered consistent with the rules of the state agency with jurisdiction. These changes may be reflected through the boundary adjustment process, ~~and may be generalized. If required to make a more definitive interpretation than is possible from the official Countywide Plan Map, individual site inspection and survey at the time of amendment or final site plan or other authorized~~

~~development order action of the local government with jurisdiction shall be determinative of actual location,~~ subject to the provisions of subsections 7.3.8.4.1 and 7.3.8.4.25 below. Map adjustments consistent with this section shall not be subject to the Countywide Plan Map amendment process governed by Article 6, but shall be reported to the PPC and CPA at their next scheduled respective meetings.

~~**7.3.8.5 — Map Adjustment Consistent With Boundary Interpretation.** The provisions set forth above relative to plan map boundary adjustments for Preservation and Recreation/Open Space categories shall not be deemed map amendments; provided that such boundary adjustments are:~~

- ~~• Related to and consistent with a jurisdictional boundary determination under state agency rules which is consistent with such rules; or~~
- ~~• Related to and consistent with the purpose and characteristics of the particular category being adjusted and, absent a determination by the Executive Director to the contrary, based upon a finding by the local government with jurisdiction or its designee that such adjustment is diminimus in extent and effect.~~

7.3.8.4.1 Requests for map adjustments must include:

- A survey or site plan of the adjustment area, as applicable pursuant to subsections 7.3.8.4.2 and 7.3.8.4.3 below;
- If not clearly shown on the survey or site plan, a map or map series sufficient to depict the current and proposed Countywide Plan Map categories of the adjustment area; and
- A shapefile of the adjustment area, or a legal description of sufficient detail to allow the boundary to be mapped.

7.3.8.4.2 Boundary adjustments for the Preservation and Recreation/Open Space categories, including the creation of new Preservation areas, may be adjusted if one or both of the following criteria are met:

- The boundary adjustment is consistent with a jurisdictional boundary survey depicting existing conditions on the site, under all applicable state agency rules. A site plan or mitigation plan depicting future conditions shall not qualify as a jurisdictional boundary survey, even if approved by the state agency with jurisdiction. Or,
- The area to be adjusted is less than one acre, and the local government with jurisdiction demonstrates that it has been devoid of any environmental features or ecological functions for at least 10 years.

For adjustments that include submerged lands in addition to the Preservation or Recreation/Open Space category, all adjustments on the site shall be required to meet the requirements of this subsection.

~~7.3.8.4.23~~ ~~Submerged lands, as specifically defined within these Countywide Rules, may be added, deleted or adjusted on the Countywide Plan Map in accord with a stormwater management project, based on the request of the local government(s) with jurisdiction, through the map adjustment process, based on the approved plan(s) for such project. Except as provided in subsection 7.3.8.4.2, submerged lands as defined within these Countywide Rules, as well as drainage detention areas created as a function of development that are not considered submerged lands pursuant to subsection 4.2.3.11, may be added, deleted or modified through the map adjustment process for the purpose of stormwater management, at the request of the local government with jurisdiction and based on an approved site plan for such project.~~ Nothing in these Countywide Rules shall require a local government with jurisdiction to seek or obtain a Countywide Plan Map amendment or adjustment in advance of a project to create, expand, reconfigure, or otherwise establish a body of water and/or drainage ~~feature in connection with a stormwater management project.~~ detention area consistent with this subsection.

~~Upon approval of a final site plan or other authorized development order action of the local government with jurisdiction, the established boundary survey or approved plan shall be forwarded to the PPC. Any adjustments to the Countywide Plan Map deemed necessary to more accurately reflect the boundary interpretation or approved plan on the Countywide Plan Map will be considered for official acceptance by the CPA, upon recommendation by the PPC, at its next regularly scheduled meeting.~~

~~7.3.8.5.1~~ ~~The PPC staff shall provide property owners affected by this map adjustment process notice, which shall include the proposed map adjustments and the dates and times of both the PPC and CPA public meetings at which the official acceptance of such adjustments will be considered.~~

~~7.3.8.4.3~~~~5.2~~ Determinations by the Executive Director under subsection 7.3.8.45 are interpretations governed by Division 7.3. Any map boundary adjustment determined under the applicable provisions of these Countywide Rules for interpretation to be of such significance as to require plan map amendment, shall comply with the otherwise applicable provisions of these Countywide Rules for map amendment.

~~7.3.8.56~~ **Cases Not Covered by 7.3.8.1 through 7.3.8.45.** In cases not covered by Sec. 7.3.8.1 through 7.3.8.45, or where the property or street layout existing on the ground is at variance with that shown on the Countywide Plan Map, the interpretation of the Countywide Plan Map shall be in accordance with the purpose and intent of the Countywide Plan Map, these Countywide Rules, and Chapter 2012-245, Laws of Florida, as amended.

**DIV. 7.4      ADJUSTMENT OF INTENSITY STANDARDS.**

**SEC. 7.4.1      APPLICABILITY.**

In specific cases, an adjustment from the terms of the floor area ratio (FAR) standards and the impervious surface ratio (ISR) standards of these Countywide Rules as will not be contrary to the public interest may be granted by the appropriate local government governing body, or their designee, authorized to hear and determine such adjustments, where, owing to special conditions peculiar to the property, a literal enforcement of such FAR and ISR standards would result in unnecessary and undue hardship. No adjustment from the terms of these Countywide Rules or the Countywide Plan Map shall be granted or otherwise allowed for uses, densities, or any other matter except for FAR standards and ISR standards as set forth in these Countywide Rules. An adjustment from the FAR standards and ISR standards of these Countywide Rules may be granted by the appropriate local government governing body, or their designee, based on the requirements of this division.

#### **SEC. 7.4.2 LOCAL GOVERNMENT REQUIRED PROCEDURES.**

**7.4.2.1 Initiation.** An adjustment may be requested from any local government governing body or their designee by any affected person, resident, developer, landowner, or any person having a contractual interest in land within the jurisdiction of such local government as provided for by the local government.

**7.4.2.2 Submission of Application.** Before an application for adjustment shall be heard by the appropriate local government governing body or their designee, a written application for adjustment shall be submitted to such local government in a form established by the local government.

**7.4.2.3 Notice of Public Hearing.** After the application for adjustment has been determined complete, the local government shall provide notice of such public hearing as may be required before the local government governing body, or their designee, in accordance with the notice requirements for similar types of adjustments in that local government jurisdiction.

**7.4.2.4 Determination by Local Government.** After any required notice, the adjustment shall be considered by the local government governing body or their designee and shall be granted, granted with conditions, or denied. An adjustment under this division shall only be granted by the local government governing body, or its designee, when substantial competent evidence in the official record of the hearing supports findings consistent with the criteria in Section 7.4.3.1.

#### **SEC. 7.4.3 LOCAL GOVERNMENT REQUIRED FINDINGS.**

**7.4.3.1** In order to grant an adjustment under this division, the local government governing body, or its designee, shall consider the following criteria:

1. A literal interpretation of the provisions of the FAR and ISR standards as governed by these Countywide Rules would result in an undue hardship due to the unique nature of the project and the applicant's property;

2. The alleged hardship is not self-imposed by the applicant and does not result from an illegal act or the actions of the applicant;
3. The adjustment, if allowed, will be the minimum adjustment that will make possible the reasonable use of the land, building or structure;
4. The granting of the adjustment will be in harmony with the Countywide Plan Map and these Countywide Rules, the local government's Comprehensive Plan, and the local government's land development regulations, and will not be otherwise detrimental to the public interest or welfare;
5. The adjustment, if allowed, shall not constitute an amendment to the local government's comprehensive plan, land development regulations, or to the Countywide Plan Map, or Countywide Rules.

**7.4.3.2** The local government land development regulations shall set forth these required findings, or contain an appropriate reference thereto, and require compliance therewith for any adjustment of the intensity standards of the Countywide Plan Map and these Countywide Rules.

**SEC. 7.4.4 CONDITIONS AND SAFEGUARDS.**

In granting any adjustment under this division, the local government governing body or their designee may prescribe appropriate conditions and safeguards in conformity with the Countywide Plan Map, the local government future land use plan and land development regulations, including, but not limited to, reasonable time limits within which action for which the adjustment is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the adjustment is granted, shall be deemed a violation of the Countywide Plan Map and these Countywide Rules.

**SEC. 7.4.5 REPORTING REQUIREMENT.**

**7.4.5.1 Submission.** Each local government shall submit to the Executive Director copies of all adjustments to intensity standards granted by the local government which exceed the Countywide standards within thirty (30) days of approval.

**7.4.5.2 Review by Executive Director.** All adjustments to intensity standards submitted by each local government which exceeded the Countywide Rules standards shall be reviewed by the Executive Director for compliance or noncompliance with this division and for consistency with the Countywide Plan Map and these Countywide Rules, and this information made available to the PPC and CPA. In the event the Executive Director finds an adjustment to be noncompliant, a recommendation for appropriate action shall be furnished by the Executive Director to the PPC and the PPC shall in turn make an advisory recommendation to the CPA.



**SEC. 7.4.6 OFFICIAL RECORD.**

Upon receipt of a copy of an intensity standards adjustment that exceeded the Countywide standards, all such adjustments shall be maintained in an official record in the PPC offices.

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| <b>DIV. 7.5 <u>NONCONFORMITIES TO THE COUNTYWIDE PLAN MAP AND COUNTYWIDE RULES.</u></b> |
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**SEC. 7.5.1 APPLICABILITY.**

**7.5.1.1** It is the intent of these Countywide Rules that existing land use, lots, and structures nonconforming as to the Countywide Plan Map and these Countywide Rules be administered by the respective local government with jurisdiction. It is the further intent of these Countywide Rules that such local government administration provide for the means by which to regulate the expansion, alteration, replacement, or discontinuance of such nonconformities in a manner that shall encourage consistency with the Countywide Plan Map and these Countywide Rules.

**7.5.1.2** Nonconformities to the Countywide Plan Map and Countywide Rules shall be prohibited except as indicated in this division.

**SEC. 7.5.2 NONCONFORMING USES, STRUCTURES, AND LOTS.**

**7.5.2.1** All existing uses, structures and lots that are nonconforming to the Countywide Plan Map or these Countywide Rules shall be prohibited, except to the extent permitted to be continued, replaced, expanded or altered, and according to the limitations thereof, as provided for in the applicable local government future land use plan and land development regulations.

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| <b>DIV. 7.6 <u>MONITORING AND REVIEW PROVISIONS.</u></b> |
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**SEC. 7.6.1 REVIEW OF THE COUNTYWIDE PLAN MAP AND COUNTYWIDE RULES.**

The Executive Director of the PPC shall review and prepare a report for the PPC on the Countywide Plan Map and these Countywide Rules no less than once every five years.

The Executive Director shall review and prepare a report to the PPC on an annual basis concerning official interpretations rendered under these Countywide Rules, such report to include any recommended amendment of the Countywide Rules.

**SEC. 7.6.2 REVIEW OF LOCAL PLANS AND REGULATIONS.**

The Executive Director of the PPC shall, in conjunction with each local government, review the consistency of the local future land use plan and land development regulations on an as-needed basis, as determined by the Council, to assure compliance with the Countywide Plan Map and these Countywide Rules.

**SEC. 7.6.3 COORDINATION WITH OTHER AGENCIES.**

The PPC shall coordinate all revisions to these Countywide Rules which deal with the Regional Policy Plan or the State Comprehensive Plan with the Tampa Bay Regional Planning Council (TBRPC) and the Department of Economic Opportunity (DEO) as is applicable.

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| <b>DIV. 7.7 <u>ENFORCEMENT.</u></b> |
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**SEC. 7.7.1 AUTHORITY.**

Pursuant to Section 10(1)(e) of Chapter 2012-245, as amended, and County Ordinance No. 15-30, the Board of County Commissioners, acting as the Countywide Planning Authority, has the authority and responsibility to enforce the Countywide Plan, including the Countywide Plan Map and these Countywide Rules, through the appropriate civil action in the court or tribunal of appropriate jurisdiction. The enforcement action of the CPA shall be governed by Chapter 164, Florida Statutes, titled Governmental Disputes, when applicable.

**SEC. 7.7.2 PROCEDURE.**

The procedure for an enforcement action of the CPA may be initiated as follows:

1. The PPC may recommend to the CPA to take enforcement action; or
2. The CPA may take enforcement action notwithstanding number 1 above.

**7.7.2.1 Initiation.** The procedure for an enforcement action of the CPA may be initiated as follows:

1. The PPC may recommend to the CPA to take enforcement action; or
2. The CPA may take enforcement action notwithstanding number 1 above.

**7.7.2.2 Administrative Hearing.** Determination by the CPA to consider enforcement action against an alleged violation may provide that the matter first be considered pursuant to an administrative hearing process.

The administrative hearing process, if employed, will be convened under and conducted pursuant to an agreement between the PPC and the State Department of Administrative Hearings (DOAH), by an administrative law judge.

- 7.7.2.3** **CPA Action.** In the event of an administrative hearing, the administrative law judge shall make findings of fact and issue a recommended order that shall be considered by the CPA in determining any appropriate enforcement action, as provided for above.

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| <b>DIV. 7.8</b> | <b>AMENDMENTS TO THE COUNTYWIDE PLAN STRATEGIES, COUNTYWIDE PLAN MAP, AND COUNTYWIDE RULES.</b> |
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**SEC. 7.8.1** **AMENDMENTS TO THE COUNTYWIDE PLAN MAP FOR LESS THAN FIVE PERCENT OF THE AREA OF THE COUNTY.**

- 7.8.1.1** For Countywide Plan Map amendments where such property is less than five percent of the area of the county, the Planning Council shall hold one advertised public hearing and the Countywide Planning Authority shall hold one advertised public hearing.

- 7.8.1.2** One advertisement shall be published at least fourteen days prior to the Planning Council public hearing. Such advertisement shall include the date and time of the Countywide Planning Authority public hearing.

- 7.8.1.3** For an alternative compromise recommendation pursuant to Section 6.3.1, an advertisement shall be published at least seven days prior to the second Countywide Planning Authority public hearing, if applicable. Such advertisement shall include the date and time of the Countywide Planning Authority public hearing.

- 7.8.1.4** One mailed notice containing the essential parts of the published advertisement shall be provided to property owners affected by this map amendment, and to the local government with jurisdiction over such amendment area at least thirty days prior to the Countywide Planning Authority public hearing.

**SEC. 7.8.2** **AMENDMENTS TO THE COUNTYWIDE PLAN MAP FOR FIVE PERCENT OR MORE OF THE AREA OF THE COUNTY.**

- 7.8.2.1** For Countywide Plan Map amendments where such property is five percent or more of the area of the county, the Planning Council shall hold one advertised public hearing and the Countywide Planning Authority shall hold two advertised public hearings. At least one of the Countywide Planning Authority hearings shall be held after 5 p.m. on a weekday. The second hearing shall be held at least 10 days after the first hearing.

- 7.8.2.2** Three advertisements shall be published as follows:

1. The first advertisement shall be published at least fourteen days prior to the Planning Council public hearing. Such advertisement shall note that the date and

time of the two Countywide Planning Authority public hearings will be determined at a later date.

2. The second advertisement shall be published at least seven days prior to the first Countywide Planning Authority public hearing. Such advertisement shall note the date and time of the two Countywide Planning Authority public hearings.
3. The third advertisement shall be published at least five days prior to the second Countywide Planning Authority public hearing. Such advertisement shall note the date and time of the second Countywide Planning Authority public hearing.

**SEC. 7.8.3 AMENDMENTS TO THE COUNTYWIDE PLAN STRATEGIES AND THE COUNTYWIDE RULES.**

**7.8.3.1** For amendments to the Countywide Plan Strategies and the Countywide Rules, the Planning Council shall hold one advertised public hearing and the Countywide Planning Authority shall hold two advertised public hearings. At least one of the Countywide Planning Authority hearings shall be held after 5 p.m. on a weekday. The second hearing shall be held at least ~~140~~ days after the first hearing.

**7.8.3.2** Three advertisements shall be published as follows:

1. The first advertisement shall be published at least fourteen days prior to the Planning Council public hearing. Such advertisement shall note that the date and time of the two Countywide Planning Authority public hearings will be determined at a later date.
2. The second advertisement shall be published at least seven days prior to the first Countywide Planning Authority public hearing. Such advertisement shall note the date and time of the two Countywide Planning Authority public hearings.
3. The third advertisement shall be published at least five days prior to the second Countywide Planning Authority public hearing. Such advertisement shall note the date and time of the second Countywide Planning Authority public hearing.

**7.8.3.3** Mailed notice containing the essential parts of the published advertisement shall be provided to all local governments at least thirty days prior to the first Countywide Planning Authority public hearing.

**SEC. 7.8.4 REQUIRED PUBLIC ADVERTISEMENT AND MAILED NOTICE FORM.**

**7.8.4.1** The form of notice for public hearings conducted under this section shall be in accordance with applicable Florida law and as more particularly set forth below:

1. The required published advertisement(s) shall be placed in a newspaper of general paid circulation in the county pursuant to Chapter 50, Florida Statutes, and be made available on the Planning Council website.

2. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.
3. The advertisement shall include a map identifying the general location of the proposed action, including major street names as a means of locating the subject property.
4. The advertisement will clearly identify the type of action being considered, a summary of the significant features of the change, and the time, date and place of the hearing(s) to be held.

**7.8.4.2** A mailed notice of the Planning Council and Countywide Planning Authority public hearings shall contain the essential parts of the published advertisement and a copy of the notice will be available for public inspection during the regular business hours of the Planning Council and Countywide Planning Authority.

The notice shall be mailed to each property owner based on the most recent published ad valorem tax records of the County.

**SEC. 7.8.5 INITIATION OF RULE AMENDMENTS.**

An amendment to the Countywide Rules may be initiated only by a local government pursuant to a formal resolution adopted by its governing body requesting and setting forth the specifics of such amendment, or by the Planning Council or Countywide Planning Authority.

**SEC. 7.8.6 NOTIFICATION TO LOCAL JURISDICTIONS.**

The Planning Council staff shall, within fifteen days of the receipt of a recorded ordinance from the Department of State, provide the local governments with a copy of the amendment and suggested modifications to the local plan and regulations that may be appropriate, if any, to be performed within one year, to maintain consistency with the Countywide Rules.

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| <b>DIV. 7.9 <u>VESTED RIGHTS.</u></b> |
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**SEC. 7.9.1 PURPOSE AND INTENT.**

**7.9.1.1 General.** It is the purpose and intent of this division to provide a procedure for the determination of vested rights under and pursuant to the Countywide Plan, inclusive of these Countywide Rules.

**7.9.1.2**      **Coordination with Local Procedures.** This vested rights procedure is intended to coordinate any vested rights determination that may be made pursuant to an established procedure by a local government and to assure that such determination is made consistent with the Countywide Plan Map and Countywide Rules. It is further the intent of this division to avoid duplication of procedures to which a vested rights applicant may be subject, and to that end, provide a mechanism for intervention by the PPC in any initial vested rights action involving an administrative hearing by an independent third party at the local level or consideration by a court of competent jurisdiction.

**SEC. 7.9.2**      **PROCEDURE FOR VESTED RIGHTS DETERMINATION.**

**7.9.2.1**      **Notice.** Notice and determination of any implication of the Countywide Plan, inclusive of these Countywide Rules shall be as follows:

1. Any local government that receives a timely application or notice of a claim for a vested rights determination as to its local comprehensive plan or land development regulations, shall forward notice and a summary description of such application or claim to the PPC within ten (10) days of receipt.
2. The PPC staff shall determine whether the application or claim is timely filed under the Countywide Rules, and whether the application or claim implicates the Countywide Plan, inclusive of these Countywide Rules, based on the consistency criteria set forth in Article 4 of the Countywide Rules, and so notify the local government within fifteen (15) days of receipt of notice from the local government.
3. In the event the PPC staff determines the Countywide Plan, inclusive of the Countywide Rules, is implicated, a complete copy of the application or claim for vested rights shall be forwarded to the Council upon request.
4. If the local government does not agree with the PPC staff determination that the Countywide Plan, inclusive of these Countywide Rules, is implicated, they may request a review and determination by the PPC, such determination to be made within sixty (60) days, but not less than ten (10) days, after the request by the local government for review and determination. Should the local government not agree with the PPC determination, the local government may, within thirty (30) days, appeal the PPC determination to the CPA. The determination of the CPA as to whether or not the vested rights application or claim implicates the Countywide Plan, inclusive of these Countywide Rules, shall be final.
5. Upon determination that the Countywide Plan, inclusive of these Countywide Rules, is implicated, the local government shall notify the applicant that any determination by the local government is also subject to a vested rights determination by the CPA as to, and pursuant to, the Countywide Plan, inclusive of these Countywide Rules.

**7.9.2.2**      **Types of Local Action.** The vested rights determination process utilized by local government shall determine the procedure for review under the Countywide Plan, inclusive of these Countywide Rules, as follows:

1.    If a vested rights determination is rendered by local government staff and/or the elected body without an administrative hearing by an independent third party, and such determination concludes that the applicant does have vested rights under the local government plan or regulations, said determination shall be forwarded to the PPC within ten (10) days of the determination by local government.
2.    If a vested rights determination by the local government involves an administrative hearing by an independent third party, the local government shall notify the PPC immediately upon the scheduling of such hearing; and where it has been determined that the Countywide Plan, inclusive of these Countywide Rules are implicated, the Council shall have the right to intervene in any such hearing and have evidence and testimony presented to the finder of fact as to vested rights under the Countywide Plan, inclusive of these Countywide Rules.
3.    If a vested rights claim is initiated in a court of competent jurisdiction, the affected local government shall notify the PPC immediately upon the filing of such action; and where it has been determined that the Countywide Plan, inclusive of these Countywide Rules are implicated, the Council shall determine, under these Countywide Rules, whether to intervene in any such action and have evidence and testimony presented to the court as to vested rights under the Countywide Plan, inclusive of these Countywide Rules.

**7.9.2.3**      **Action Based on Local Government Determination.** In the event of an affirmative vested rights determination made by the local government staff or elected body, the local government action shall be transmitted to the PPC within ten (10) days.

1.    PPC Action - the PPC staff shall review the local government action and prepare findings and a recommendation for consideration by the Council within sixty (60) days of the date of transmittal. Upon receipt of the staff findings and recommendation, the PPC shall hold a public hearing and make a recommendation to the CPA as to whether or not the applicant has met the burden of proof and has satisfied the standards and criteria for vested rights determinations as set forth in Section 7.9.4 below.
2.    CPA Action – the Council’s recommendation shall be transmitted to the CPA for consideration at public hearing and final action within sixty (60) days of the date of transmittal. The CPA action shall be based on the Council’s recommendation and the standards and criteria for vested rights determination as set forth in Section 7.9.4 below. Any deviation from the Council’s recommendation shall be by a

majority vote, plus one, of the entire CPA, based on findings that support such decision.

**7.9.2.4** **Action Based on Administrative Hearing.** In the event of an administrative hearing by an independent third party, the findings of fact and conclusions of law shall be transmitted to the CPA within ten (10) days of their issuance.

1. CPA Action - Upon receipt of the findings and conclusions rendered after an administrative hearing by an independent third party, the CPA shall hold a public hearing within sixty (60) days and consider said findings and conclusions relative to the standards and criteria set forth herein, as to vested rights under the Countywide Plan, inclusive of these Countywide Rules. Said consideration shall be based solely upon the findings of fact and conclusions of law made as a function of the administrative hearing and, to that end, only exceptions to the findings and conclusions by a party of interest may be entertained by the CPA.

**7.9.2.5** **Action Based on Court Determination.** In the event of an initial court action on a vested rights claim at the local government level in which action the Countywide Plan, inclusive of these Countywide Rules have been considered pursuant to this vested rights process, the action of the court shall be final unless appealed pursuant to applicable law. If a court order addresses vested rights as to the local government plan or regulations, but does not address vested rights as to the Countywide Plan, inclusive of these Countywide Rules, the PPC and CPA shall consider the court order pursuant to Section 7.9.2.3.

### **SEC. 7.9.3** **APPEALS.**

**7.9.3.1** **Action Final Subject to Appeal.** The action of the CPA shall be final with respect to vested rights under the Countywide Plan, inclusive of these Countywide Rules, subject only to review by a court of competent jurisdiction.

**7.9.3.2** **Appeal Provisions.** After a final decision has been rendered by the CPA, a party of interest may file an appeal with a court of competent jurisdiction within thirty (30) days.

### **SEC. 7.9.4** **STANDARDS AND CRITERIA FOR VESTED RIGHTS.**

**7.9.4.1** **Burden of Proof.** The applicant in any action under this vested rights process shall have the burden of proof to demonstrate all of the following:

1. There is a valid, unexpired “development permit” authorized by the local government approving the proposed development, which authorization occurred prior to the effective date of the Countywide Plan, inclusive of these Countywide Rules in effect at the time of the filing of the vested rights application. “Development permit” shall mean and include any building permit, final site plan approval, final subdivision plat approval, special exception, conditional use, or variance approval, or any other official action of the local government having the



effect of permitting the development of land in the manner and timeframe specified;

2. The applicant relied in good faith upon the issuance of the development permit by the local government, said reliance was reasonable, and development under the authorized development permit was initiated and proceeded in a timely manner and in good faith;
3. The applicant incurred such substantial obligations and expenditures that it would be highly inequitable or unjust to require that the development conform with the Countywide Plan, inclusive of these Countywide Rules in effect at the time of the filing of the vested rights application: and
4. The application must be filed within two (2) years after the adoption of the Countywide Plan or Rule provision against which vesting is sought, subject to Section 7.9.4.3.

**7.9.4.2** **Applicable Case Law.** The treatment of similar cases by Florida courts shall be relevant to the determination of the existence and extent of vested rights that may have been established, if any.

**7.9.4.3** **Presumption of Validity.** A presumption of validity shall apply to vested rights determinations that have been made pursuant to an established local government process or by a court of competent jurisdiction prior to the effective date of this provision (Ordinance No. 03-23, April 24, 2003).

**ARTICLE 8**

**TERMS AND DEFINITIONS**

## DIV. 8.1 CONSTRUCTION.

The construction and interpretation of all words, terms and provisions contained in these Countywide Rules shall be as set forth under Section 7.3.7 Rules of Interpretation, and as defined hereunder.

## DIV. 8.2 DEFINITIONS

**Accessory Dwelling Unit** – An ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit. Accessory dwelling units are not counted against the otherwise applicable maximum dwelling units per acre density standard.

**Activity Center** – A contiguous area designated with the Activity Center category on the Countywide Plan Map, which is governed by locally-adopted plan or code provisions that identify the area as a unified location, and which serves as an important, identifiable center of business, public, and residential activity that is the focal point of a community, designed to accommodate multiple modes of transportation including enhanced transit.

**Adjustment** – A departure from the literal requirements of the floor area ratio and impervious surface ratio standards as described in these Countywide Rules and made a part of the local land development regulations.

**Agricultural Processing Use** – The processing, preparation, packaging and distribution of agricultural commodities such as livestock or crop products.

**Agricultural Use** – Crop production, including plant nurseries; raising livestock, including horse stables, dog kennels and animal boarding; veterinary clinics; and associated uses as permitted by local plans and regulations.

**Agricultural - Light** – A public or private property devoted to the growing of produce and/or horticultural plants, small-animal husbandry, aquaculture, beekeeping, or related uses, where noise, odor, runoff, insects, pests, and other impacts are contained on-site and do not negatively affect adjacent land uses, consistent with such standards as may be prescribed by the local government with jurisdiction. This use may allow for some exterior storage of equipment or materials, ~~and~~ the incidental processing, preparation, packaging and distribution of non-livestock agricultural products; [and dog kennels, animal boarding and veterinary clinics.](#) On-site sales of agricultural products produced on-site are allowed at the discretion of the local government. See also: Community Garden Use.

**Airport, Seaport, Marina Use** – A public or quasi-public facility for air or marine transport respectively, including such terminal, docking, hangar, storage, parking, transient accommodation, office, retail commercial, and eating/drinking facilities as may be directly related or accessory thereto.

**Ancillary Nonresidential Use** – Off-street parking and trash receptacle areas for adjacent, contiguous, nonresidential uses.

**Aquifer Recharge Area** – An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into the underground aquifer.

**Automobile-Oriented Retail Commercial Use** – A Retail Commercial Use that services motor vehicles as a primary use, or is designed to provide for the sale of consumer goods, products, merchandise or services to patrons in motor vehicles, examples of which include gas stations, car washes, and businesses with drive-throughs. See also: Retail Commercial Use.

**Arterial Road** – A roadway providing automobile or multimodal transportation which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. Arterial roadways interconnect principal traffic generating activity centers within an urban area with the freeway system.

**Brewpub** – A restaurant or bar where alcoholic beverages are produced on the premises primarily for on-site consumption, but which may provide for a percentage of the product to be sold and distributed off-site. Brewpubs are considered to be a subset of Retail Commercial Use, as specifically defined within these Countywide Rules. See also: Microbrewery/winery/distillery.

**Buffer Area** – A natural or landscaped area or strip of land, with or without such physical separation devices as a fence or wall, established to separate and insulate one type of land use from another land use; or to shield or block noise, lights or other nuisances; or to separate development and a natural feature so as to reduce the incompatibility between uses or features and protect the integrity of each.

**Coastal Construction Control Line** – The most recently adopted line established by the Florida Department of Environmental Protection, pursuant to Section 161.053, Florida Statutes, for Pinellas County.

**Coastal High Hazard Areas** – The area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

**Collector Road** – A roadway providing service which is of relatively moderate traffic volume, moderate trip length, and moderate operating speed. Collector roads serve internal traffic movements within an urban area, collecting and distributing traffic between the arterial and local road system.

**Commercial/Business Service Use** – An occupation or service involving the sale, storage, repair, service or rental of motor vehicles, water craft, residential machinery or equipment, examples of which include automobile, boat, and household or yard equipment sales, service or repair, and like uses; the production, assembly or dismantling of which shall be clearly secondary and incidental to the primary use characteristics of the Commercial/Business Service Use, as specifically defined within these Countywide Rules.

**Commercial Recreation Use** – A private or quasi-public recreation facility designed for participant or spectator activities for a charge, including but not limited to marina, miniature golf, dog race track, horse race track, jai-alai fronton, stock car race track, sports stadium, performance venues, and indoor recreation/entertainment uses such as billiard halls, bowling alleys, movie theatres, and video game arcades.

**Community Garden Use** – A public or private open space use devoted to the growing of produce and/or horticultural plants for off-site sale, personal consumption, enjoyment and/or donation by a group of individuals or a non-profit organization. Occasional on-site sales of produce and horticultural products produced on-site are allowed at the discretion of the local government.

**Cone of Influence (Zone of Influence)** – An area around one or more major waterwells, designed to protect groundwater resources, the boundary of which is determined by the government agency having specific statutory authority to make such a determination based on groundwater travel or drawdown depth.

**Contiguous** – For the purpose of determining applicability of acreage thresholds within a given Countywide Plan Map category, “contiguous” means parcels touching along a boundary or directly across roadway with a local or collector functional classification or other right-of-way from each other. For the purpose of calculating density averaging, “contiguous” means parcels touching along a boundary or directly across any roadway or other right-of-way from each other.

**Continuing Care Retirement Communities** – [A residential or residential-like accommodation which provides long-term care options for older individuals who wish to stay in the same accommodation through different phases of the aging process.](#)

**County** – Pinellas County, Florida.

**Countywide Plan** – Materials in such descriptive form, written or graphic, as may be appropriate to the prescription of strategies for the orderly and balanced future development of Pinellas County, pursuant to Chapter 2012-245, Laws of Florida, as amended. The Countywide Plan is comprised of the Countywide Plan Strategies, the Countywide Plan Map, and the Countywide Rules.

**Countywide Plan Map** – The future land use map that designates general categories of land use, including transit-supportive and multimodal-supportive categories, by type and location to guide the future development pattern and use of land throughout the county, as adopted by the Pinellas Planning Council and Countywide Planning Authority pursuant to Chapter 2012-245, Laws of Florida, as amended. The Countywide Plan Map may consist of a single map or map series as approved by the PPC and CPA and filed with the Clerk of the Board of County Commissioners.

**Countywide Plan Map Category** – The name and symbol by which the distinct areas of the Countywide Plan Map are enumerated and administered. Each category is defined in terms of purpose, use, locational characteristics, specific standards for density/intensity of use, and other standards appropriate to each category.

**Countywide Plan Strategies** – An overarching set of policies that identify and set forth a plan of action to address those components set forth in Chapter 2012-245, Laws of Florida, as amended, which are collectively used to administer and guide interpretation of the Countywide Plan Map and Countywide Rules.

**Countywide Planning Authority (CPA)** – The Board of County Commissioners of Pinellas County, acting in its capacity as the Countywide Planning Authority, through the exercise of its power under section 2.04(s) of the Pinellas County Charter and pursuant to Chapter 2012-245, Laws of Florida, as amended.

**Countywide Rules** – Those rules, standards, and procedures that will implement the Countywide Plan, as adopted by the Pinellas Planning Council and Countywide Planning Authority pursuant to Chapter 2012-245, Laws of Florida, as amended.

**Density** – The measure of permitted residential development expressed as a maximum number of dwelling units per net acre of land area.

**Density/Intensity Averaging** – The aggregation of the otherwise permitted density and/or intensity of a parcel or parcels of land in a non-uniform or consolidated manner on a portion of such contiguous parcel(s) in accordance with Sec. 5.2.1.2 of these Rules as may be authorized by the local government with jurisdiction and otherwise consistent with these Countywide Rules.

**DEO** – The Florida Department of Economic Opportunity.

**Development Rights** – A property owner’s entitlement to develop land in accordance with the local jurisdiction’s comprehensive plan and land development regulations which have been deemed to be consistent with these Countywide Rules.

**Drainage Detention Areas** – Ponds, basins or other land forms and associated water areas designed for the storage and/or treatment of stormwater runoff.

**Dune** – A mound or ridge of loose sediments, such as sand, deposited and moved around by wind action, as well as by artificial means. Dune systems are usually held in place by vegetation particularly suited to dune system habitat. Dunes are landward of the shoreline and serve as a transition area between the beach and coastal land.

**Dwelling Unit** – One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. This term shall include any type of use authorized to be treated as a dwelling unit by Chapter 419, Florida Statutes, governing Community Residential Homes.

**Estuary** – A semi-enclosed, naturally existing coastal body of water in which saltwater is naturally diluted by freshwater and which has an open connection with oceanic waters. Estuaries include bays, embayments, lagoons, sounds and tidal streams.

**Executive Director** – A staff member appointed by Forward Pinellas, with sole authority to manage the activities of the agency and its staff pursuant to Section 7(1) of Chapter 2012-245, Laws of Florida. The Executive Director may designate a staff member to carry out his/her responsibilities as identified in these Countywide Rules.

**Facility-Based Recreation** – Recreational activities that typically require a built facility to accommodate them for recreational sporting events such as a playfield, paved court, horse stable, or swimming pool. Uses may include but are not limited to softball, baseball, football, tennis, basketball, soccer, playgrounds, fitness trails, and swimming pools. These activities are not natural resource dependent.

**Fixed-Guideway Transit** – A transit mode that uses rails or exclusive or controlled rights-of-way. Examples include light rail, monorail, or bus service operating in a bus-only right-of-way.

**Floodplain, 25-Year** – Areas inundated during a 25-year storm/flood event.

**Family** – One or more individuals occupying a dwelling unit and living as a single household unit.

**Floor Area, Gross** – The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, parking garages, or loading space for motor vehicles.

**Floor Area Ratio (FAR)** – A measurement of the intensity of building development on a site. A floor area ratio is the relationship between the gross floor area on a site and the net land area. The FAR is calculated by adding together the gross floor areas of all buildings on the site and dividing by the net land area.

**Forward Pinellas** – Agency serving as the Pinellas Planning Council and Pinellas County Metropolitan Planning Organization. See also: Pinellas Planning Council.

**Freeways** – Are devoted entirely to traffic movement with little or no land service function. These facilities have at least some degree of access control, are primarily multi-lane divided roads, with few intersections at grade. These facilities serve large volumes of high-speed traffic with extensive trip length and interconnect with the arterial road system.

**Freshwater Marsh** – A wetland having more than 25 percent vegetative cover by terrestrial herbs but 40 percent or less cover by woody plants, occasionally or regularly flooded by freshwater (e.g., sawgrass).

**Freshwater Swamp** – A wetland having more than 40 percent cover by woody plants and that is occasionally or regularly flooded by freshwater (e.g., cypress swamp).

**Governing Body** – The Board of County Commissioners of Pinellas County or the commission or council of an incorporated municipality within Pinellas County.

**Groundwater Resource Area** – Those areas of the County that support municipal/public water wells that supply potable water.

**Household** – A family living together in a single dwelling unit, with common access to and use of all living and eating areas.

**Hurricane Evacuation Zone** – Areas delineated by vulnerability to possible storm surge damage. Factors such as land elevation, predicted storm location, direction of storm tract, distance from large bodies of water, and physical features are used in vulnerability determination. The hurricane vulnerability zone includes areas requiring evacuation as follows:

- Zone A: First to evacuate (4-5 ft. storm surge)
- Zone B: Next to evacuate (6-8 ft. storm surge)
- Zone C: Next to evacuate (9-12 ft. storm surge)
- Zone D: Next to evacuate (13-18 ft. storm surge)
- Zone E: Next to evacuate (18+ ft. storm surge)

**Impervious Surface** – A surface that has been compacted or covered with a layer of material so that it is highly resistant or prevents infiltration by stormwater. It includes roofed areas and surfaces such as compacted sand, limerock, or clay, as well as conventionally surfaced streets, sidewalks, parking lots, and other similar surfaces.

**Impervious Surface Ratio (ISR)** – A measure of the intensity of hard surfaced development on a site. An impervious surface ratio is the relationship between the total impervious surface area on a site and the net land area. The ISR is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the net land area.

**Incinerator Facility** – A place licensed pursuant to state law, where cremation of human or animal remains occurs.

**Institutional Uses** – Those facilities and services of a public, private, or quasi-public nature, including educational, medical, governmental, civic, and religious uses, such as schools, hospitals, courthouses, community centers, and churches.



**Intensity** – The measure of permitted development expressed as a maximum Impervious Surface Ratio and/or Floor Area Ratio per acre of net land area.

**Lacustrine River and Stream** – Pertaining to a lake, river, or stream system.

**Land Use** – The development that has occurred on the land, the development that is proposed on the land, or the use that is permitted or permissible on the land, under an adopted comprehensive plan or element or portion thereof, land development regulations, a land development code, or these Countywide Rules as the context may indicate.

**Like Uses** – Uses that are similar, found in the same Countywide Plan Map category, and which, when contiguous and resulting in an aggregation greater than the applicable acreage thresholds, are required to be designated with a more appropriate plan category. For example, commercial retail uses, such as a convenience store and a restaurant, shall be considered like uses. Commercial office uses, such as a law office and an accounting office, shall be considered like uses. Institutional uses, such as a fire station and a library, shall be considered like uses.

**Local Comprehensive Plan** – A plan prepared by each of the local governments in Pinellas County that meets the requirements of Sections 163.3177 and 163.3171, Florida Statutes, and Chapter 2012-245, Laws of Florida, as amended.

**Local Future Land Use Plan** – The future land use element and future land use plan map for each of the local governments in Pinellas County.

**Local Government** – Pinellas County or any of the twenty-four incorporated municipalities in Pinellas County.

**Local Land Development Regulations** – Land development regulations enacted by each local government, by ordinance, for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or any other regulations controlling the development of land.

**Local Planning Agency** – The agency designated by each local government to prepare that local government's comprehensive plan as required by Chapter 163 Part II, Florida Statutes.

**Local Street** – A minor roadway designed to provide access to adjacent land. Local streets carry a small percentage of the total vehicle mileage traveled, but make up a large percentage of the total street mileage and serve to interconnect individual properties with the collector road system.

**Major Transportation Facilities** – One or more arterial roadways or highways identified by the roadway classification system of the Metropolitan Planning Organization; and/or transit with headways (i.e., service frequency) of no less than 30 minutes.

**Manufacturing - Light** – A use engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products, occurring entirely within enclosed buildings. This use shall not include or allow for any exterior storage or processing of equipment or materials of any kind. Noise, odor, smoke, heat, glare, vibration, hazardous chemicals, and other impacts must be entirely contained within enclosed buildings, consistent with such standards as may be prescribed by the local government with jurisdiction.

**Manufacturing - Medium** – A use engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products. This use may include or allow for exterior storage of equipment or materials, provided that impacts are contained on-site and do not negatively affect adjacent land uses, consistent with such standards as may be prescribed by the local government with jurisdiction.

**Manufacturing - Heavy** – A use engaged in the manufacture of products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products, with potential to produce noise, odor, smoke, heat, glare, vibration, hazardous chemicals, and other impacts that may affect adjacent land uses. Such use may include the exterior storage and processing of materials and equipment to the extent and in such manner as is permitted by the local government with jurisdiction.

**Microbrewery/Winery/Distillery** – A small-scale, licensed establishment that produces alcoholic beverages primarily for off-site sale and distribution, but which may provide for a percentage of the product to be sold and consumed on-site in a taproom or tasting room. Microbrewery/Winery/Distillery uses are permitted in Countywide Plan Map categories that permit Manufacturing - Light, and in the Activity Center and Multimodal Corridor categories as permitted by the local government with jurisdiction. See also: Brewpub.

**Missing Middle Housing** – Housing that encompasses a range of smaller, multi-unit or clustered housing types (such as shotgun, skinny, duplex, triplex, fourplex, courtyard apartment, bungalow court, townhouse, multiplex, and live/work units), which are compatible in scale and design with single-family homes, and are designed to encourage walking, biking, and transit use.

**Mixed Use** – A combination of uses on a single property.

**Multimodal Corridor** – A contiguous, linear area designated with the Multimodal Corridor category on the Countywide Plan Map, which is governed by locally-adopted plan or code provisions that identify the area as a unified corridor, serves as a corridor of critical importance to the movement of people and goods throughout the county, and is characterized by mixed-use development, supported by and designed to facilitate transit.

**Multimodal Transportation** – A combination of automobile, pedestrian, bicycle, and/or transit travel modes sharing a transportation facility or system. When used alone as an adjective, “multimodal” indicates the presence of characteristics supportive of such transportation (e.g., multimodal infrastructure).

**Municipality** – An incorporated city or town in Pinellas County.

**Net Land Area** – Net land area for the purpose of computing density/intensity shall be that total land area within the property boundaries of the subject parcel, and specifically exclusive of any submerged land or public road right-of-way existing at the time of the most recent future land use map amendment.

**Nonconforming Lot, Use, or Structure** – A lot, use, or structure which was previously legal and at inception conformed to the then-applicable regulations, that subsequently fails to conform to the requirements of the Countywide Plan Map and these Countywide Rules, as either may be amended from time to time.

**Nonresidential Use** – Those uses as provided for under the respective categories, other than residential or residential equivalent use.

**Nontidal Wetlands** – Wetlands that occur further inland, beyond tidal influence. Included, are freshwater marshes and ponds, shrub swamps, bottomland hardwood forests, wooded swamps, and bogs, as well as inland saline and alkaline marshes and ponds.

**Off-Premise Sign** – Any sign identifying or advertising a product, business, person, activity, condition, or service not located or available on the same lot where the sign is installed and maintained.

**Off-Street Parking** – A parking area improved for licensed motor vehicles, temporarily stored in connection with a use requiring same.

**Office Use** – An occupation or service providing primarily an administrative, professional or clerical service and not involving the sale of merchandise; examples of which include medical, legal, real estate, design, and financial services, and like uses. No “Office Use” shall include any Personal Service/Office Support Use, Retail Commercial Use, or Commercial/Business Service Use, as specifically defined within these Countywide Rules.

**Personal Service/Office Support Use** – An occupation or service attending primarily to one’s personal care or apparel; examples of which include hair and beauty care, clothing repair or alteration, dry cleaning/laundry service (collection and distribution only), and like personal service uses; animal grooming; and office equipment or supplies, and like office support uses. Any assembly, sale of merchandise or conveyance of a product in support of a personal service or office support use shall be clearly secondary and incidental to the primary use characteristics of the Personal Service/Office Support Use. No “Personal Service/Office Support Use” shall include any Retail Commercial Use or Commercial/Business Service Use, as specifically defined within these Countywide Rules.

**Pinellas County Home Rule Charter** – The Pinellas County Home Rule Charter as it applies to the authority for countywide planning is found in Section 2.04(s) of the Pinellas County Home Rule Charter, Chapter 80-590, Laws of Florida, as amended, which established the legislative authority for the creation, by special law, of a countywide planning authority.

**Pinellas Planning Council (PPC)** – The Pinellas Planning Council is comprised of thirteen (13) elected officials representing their respective governing bodies in Pinellas County. As described in Chapter 2012-245, Laws of Florida, as amended, the membership of the Pinellas Planning Council shall be composed of the voting membership of the Pinellas County Metropolitan Planning Organization (MPO). The terms of office and appointments to fill vacancies shall be consistent with Florida law governing the MPO. See also: Forward Pinellas.

**Planned Redevelopment District** – A contiguous area designated with the Planned Redevelopment District category on the Countywide Plan Map, which is governed by locally-adopted plan or code provisions that identify the area as a unified location, and which provides for a mix of uses, densities/intensities, and urban design that promote walking, biking and transit use.

**Planners Advisory Committee (PAC)** – The Planners Advisory Committee is comprised of the directors of individual local government land use and planning departments, or their designees. The PAC may also include a representative from the planning departments maintained by the Pinellas County School Board, the Pinellas Suncoast Transit Authority, the Florida Department of Transportation, and other agencies as the council may determine appropriate. The PAC, at the direction of the Pinellas Planning Council, performs a professional planning review of the PPC staff recommendations of plans that are to be acted upon by the PPC. The PAC may perform other such duties assigned to it by the PPC, but may not be involved in the administrative or executive functions of the PPC.

**Premium Transit Corridor** – A corridor providing transit service with more frequent service, fewer stops, longer hours of service, and/or greater amenities than the majority of local bus service, and which may or may not include fixed-guideway transit. Premium Transit Corridor locations shall be identified by formal action of the Metropolitan Planning Organization in coordination with the Pinellas Suncoast Transit Authority, and depicted on the Land Use Strategy Map.

**Preservation Uses** – Uses primarily providing passive open space, providing for the conservation and management of natural features, providing for watershed management and designed to recognize and protect open and undeveloped areas, providing habitat for endangered or threatened species, and generally recognizing environmentally significant areas.

**Primary Industry** – A business that imports more than half of its revenue from outside of Pinellas County. May also be referred to as contributory, basic, or traded-sector industries.

**Public Educational Facility** – Elementary schools, special education facilities, alternative education facilities, middle schools, high schools, and area vocational-technical schools of the Pinellas County School District.

**Public Recreation Facility** – A publicly owned or leased recreation site or component thereof, used by the public for active or passive recreational pursuits such as a trail, marina, ball court, athletic field or swimming pool. This term includes both Facility-Based Recreation and Resource-Based Recreation, which terms may be distinguished between as to the use characteristics permitted within a given plan category.

**Quasi-Public Uses** – A noncommercial use, such as a private school or religious institution, which is open to and/or serves an identified membership, group of people (as opposed to the public), and/or partisan cause.

**Recreation/Open Space Uses** – Uses providing recreation facilities, sporting facilities, and open space, such as a park, public recreation facility, public beach/water access, and public or private golf course/clubhouse.

**Recreational Vehicle Park** – A lot or parcel of land upon which spaces are occupied or intended for occupancy on a temporary basis by recreational vehicles designed for travel, recreation, and vacation uses.

**Religious Institution Use** – A site, premise, or location that is used principally, primarily, or exclusively for the purposes of religious exercise as protected by the First Amendment to the U.S. Constitution.

**Research/Development - Light** – A use engaged in the research, testing, and development of goods, materials, or products, occurring entirely within enclosed buildings. Manufacturing uses conducted on the premises shall be limited to those needed for experimental or testing purposes. This use shall not include or allow for any exterior storage or processing of equipment or materials of any kind, and shall be consistent with such standards as may be prescribed by the local government with jurisdiction.

**Research/Development - Heavy** – A use engaged in the research, testing, and development of goods, materials, or products. Manufacturing uses conducted on the premises shall be limited to those needed for experimental or testing purposes. Such use may include the exterior storage and processing of materials and equipment to the extent and in such manner as is permitted by the local government with jurisdiction.

**Residential Equivalent Use** – A residential-like accommodation other than a dwelling unit, including bed and breakfast, group home, congregate care, nursing home and comparable assisted living facilities. No such use shall be required or eligible to employ the residential equivalent standards for density/intensity for any household that qualifies as a dwelling unit. This use shall not include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a dwelling unit.

**Residential Use** – A dwelling unit including, single-family, multifamily, and mobile home dwelling unit. This use shall include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a residential dwelling unit.

**Resource-Based Recreation** – Recreational activities that typically are dependent on natural resources and a natural outdoor environment. These activities have little, if any, adverse impact on a site and are compatible with natural and/or cultural resource protection. Depending on the site, uses may include picnicking, low-impact camping, educational nature studies, wildlife viewing, horseback riding on trails, fishing, hiking, saltwater beach activities, or freshwater swimming.

**Retail Commercial Use** – An occupation or service providing primarily for the sale of consumer goods, products, merchandise or services from within an enclosed building; examples of which include grocery, pharmacy, apparel, jewelry, electronics, sporting goods, specialty shops, building supplies, convenience goods, restaurant, indoor recreation/entertainment uses (such as billiard halls, bowling alleys, movie theaters, and video game parlors) and like uses. Any exterior storage or facilities in connection with such use shall be clearly secondary and incidental to the primary use characteristics of the Retail Commercial Use. No “Retail Commercial Use” shall include any Commercial/Business Service Use, as specifically defined within these Countywide Rules.

**Saltwater Marsh** – A wetland having saline (including brackish) soils with 40 percent or less cover by woody plants and 25 percent or more cover by terrestrial herbs that is occasionally or regularly flooded by brackish or saline water (e.g., smooth cordgrass marshes).

**Saltwater Swamp** – A wetland having saline (including brackish) soils with 40 percent or more cover by woody plants and occasionally or regularly flooded by brackish or saline water (e.g., mangrove swamps).

**Self Storage** – An enclosed, indoor facility containing individual compartmentalized storage units for the inside storage of customers’ goods or wares. Self Storage uses are considered to be a subset of Storage/Warehouse/Distribution - Light, as defined within these Countywide Rules. May also be referred to as Mini Storage or Mini Warehouse Storage.

**[Senior Housing – A residential or residential-like accommodation which are suitable for the needs of an aging population, including group home, congregate care, nursing home, and Continuing Care Retirement Communities.](#)**

**Solid Waste/Refuse Disposal Use** – A facility approved for the collection, separation, storage and disposal of waste materials including garbage, trash, building materials and/or yard waste. Such use shall comprise an approved land fill, compost or incineration facility in accord with the otherwise required provisions of law.

**Special Act** – Chapter 2012-245, Laws of Florida, as amended. The Special Act establishes the Pinellas Planning Council and the authority for the Countywide Planning Authority and provides the legal requirements for countywide planning and coordination in Pinellas County.

**Special Area Plan** – A plan adopted by a local government under the provisions of Section 4.2.7.6 of the *Rules Concerning the Administration of the Countywide Future Land Use Plan*, as amended through July 21, 2014, which establishes and governs the density, intensity, use, and other standards for a defined area within the local government’s jurisdiction.

**Storage/Warehouse/Distribution - Light** – A use devoted primarily to the storage or distribution of goods, materials or equipment. Such use shall be located within an enclosed building and any exterior storage or distribution area shall be incidental to and not exceed twenty (20) percent of the area of the building to which it is accessory.

**Storage/Warehouse/Distribution - Heavy** – A use devoted primarily to the storage or distribution of goods, materials or equipment. Such use may include exterior storage and distribution to the extent and in such manner as is permitted by the local government with jurisdiction.

**Submerged Land** – The area situated below the mean high water line or the ordinary high water line of a standing body of water, including ocean, estuary, lake, pond, river, stream, or existing natural and man-made drainage detention areas. For the purpose of this definition, submerged lands created as a function of development that are recorded on an approved final site plan or other authorized development order action of the local government with jurisdiction, and wetlands landward of the mean and/or ordinary high water line, shall not be considered submerged land pursuant to subsection 4.2.3.11, ~~and thus may be included in the computation of net land area for the purpose of determining permitted density/intensity.~~

**TBRPC** – The Tampa Bay Regional Planning Council.

**Target Employment** – High-wage, primary employment, including but not limited to, the fields of aviation/aerospace, financial services, high tech industries, information technology, marine science, medical technology, microelectronics, modeling/simulation, optics/photonics, research/development, and wireless technology.

**Temporary Lodging Unit** – An individual room, rooms or suite within a temporary lodging use designed to be occupied as a single unit for temporary occupancy. May also be referred to as Transient Accommodation Unit.

**Temporary Lodging Use** – A facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one (1) month, more than three (3) times in any consecutive twelve (12) month period. In determining whether a property is used as a temporary lodging use, such determination shall be made without regard to the form of ownership of the property or unit, or whether the occupant has a direct or indirect ownership interest in the property or unit; and without regard to whether the right of occupancy arises from a rental agreement, other agreement, or the payment of consideration. May also be referred to as Transient Accommodation Use.

**Tidal Wetlands** – Areas that are comprised of coastal marshes, mudflats and mangrove swamps that are subject to periodic flooding by ocean-driven tides.

**Traffic Generation Characteristics** – The measure of traffic impact expressed as a countywide standard in terms of primary network vehicle trips per day per acre, attributable to each land use category, as determined specifically for the Countywide Plan.

**Transfer of Development Rights** – The conveyance of development rights by deed, easement, or other legal instrument from a parcel or parcels of land to another parcel or parcels, or within the same parcel, where such conveyance is from one Countywide Plan Map category to a similar, but separately located, or a different, Countywide Plan Map category, other than as is permitted by Sec. 5.2.1.1 of these Rules, and as may be authorized by the local government with jurisdiction, and otherwise consistent with these Countywide Rules.

**Transfer/Recycling Use** – A use designed to accommodate the temporary location, sorting and transfer of solid waste. Such use shall be limited as to the type of waste, the time within which it must be transferred from the site and limitations on exterior location by the local government with jurisdiction.

**Transit** – Passenger services provided by public, private or nonprofit entities including the following surface transit modes: commuter rail, rail rapid transit, light rail transit, light guideway transit, express bus, and local fixed route bus.

**Transit Corridor** – A linear area which is served by transit, generally extending a quarter-mile in either direction from the centerline of a transit route, which is outside of a designated transit station area, and where higher densities/intensities and urban design support transit usage and other modes of travel in addition to the private automobile.

**Transit-oriented Use** – A use that benefits from proximity to transit in a built environment characterized by compact, mixed-use, pedestrian-friendly, and higher density/intensity development. This may include target employment uses.

**Transit Route** – A specified path taken by a transit vehicle, along which passengers are picked up or discharged.

**Transit Station** – A transit stop serving several transit routes, located on or off-street, that facilitates the boarding, alighting and transferring of passengers between transit routes. These may be stand-alone facilities or a simply a series of passenger shelters connected by a pedestrian way, and providing an array of passenger amenities. Such facilities may also provide an opportunity for commuter parking and intermodal transfers, in addition to travel ways and storage areas for transit vehicles.

**Transit Station Area** – An area generally encompassing a half-mile radius from the center of a transit station, which serves as a mixed-use activity center, where higher densities/intensities and urban design support transit usage and other modes of travel in addition to the private automobile.



**Transportation/Utility Uses** – Uses including transportation facilities and utilities infrastructure, such as an airport, seaport, marina, electric power generation plant, electric power substation, and telephone switching station.

**Undeveloped Barrier Island** – A land form facing the waters of the Gulf of Mexico and surrounded by water, consisting mainly of quartz sands, limestone, rock, coral and other material, including spoil disposal islands, which features lie above the line of mean high water and which has not been developed.

**Vacation Rental Use** – A residential dwelling unit used as a temporary lodging use, as defined by Section 509.242(1)(c), Florida Statutes, subject to regulation by the local government with jurisdiction.

**Vertically Integrated Mixed-Use Development** – A single building which accommodates multiple land uses, with more active uses (e.g., retail commercial) established at ground level and less active uses (e.g., residential, office) on higher floors.

**Vehicular Salvage Use** – A use that provides for the location, storage, dismantling, repair, or salvage of abandoned, derelict or junk vehicles or vehicle parts.

**Water-Dependent Use** – A use that requires a location adjacent to a water body because of the intrinsic nature of its operations, such as seaports, marinas, and marine-related facilities.

**Water Supply Infrastructure and Support Facilities** – Above or below ground structures, including wells, pipes, pumps, buildings, facilities, fixtures, machinery, reservoirs, and appurtenant facilities and structures, required for the provision of high quality potable water.

**Wetlands** – Those areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Working Waterfront** – Property that provides access for water-dependent commercial activities, or provides public access to the water. Working waterfronts require direct access to or a location on, over, or adjacent to a body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to a body of water or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over water.

## **4B. Legislative Update**

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### **SUMMARY**

The last scheduled day of the 2021 Legislative Session is April 30. We have been tracking a number of bills with relevance to local and regional land use planning efforts, as listed below. This memo will include the most recent information available at the time of agenda publication, with the final status of bills presented verbally at the May 3 PAC meeting.

Committee meetings for both chambers ended on April 20, therefore any bills that have not already made it through the committee process will not advance any further. However, there is still a possibility of their content being combined with other bills to be voted on by the full House and Senate.

#### **Proposed Building Design Legislation**

[House Bill \(HB\) 55](#), filed by Representative Overdorf, and [Senate Bill \(SB\) 284](#), filed by Senator Perry, would prohibit local zoning and development regulations relating to building design elements for a “single-or two-family dwelling,” including the appearance of roofs, porches, windows, entry doors, garage doors, and architectural style. Exceptions apply for designated historic properties, Community Redevelopment Areas, master planned communities, as needed to meet requirements of the National Flood Insurance Program or to protect coastal wildlife, and local governments with architectural or design review boards established on or before July 1, 2021. The proposed legislation would undermine local governments' ability to determine the character of their own communities, and Forward Pinellas has joined with statewide efforts to oppose it.

HB 55 passed the House and has been received by the Senate, and SB 284 passed two of its three committees, indicating a high level of support. The same language was also added to SB 1146, addressing changes to the Florida Building Code, although that bill was subsequently laid on the table in favor of its companion HB 401 (see below), which lacks the HB 55/SB 284 language.

#### **Traffic and Pedestrian Safety**

[HB 1113](#), filed by Representative Fine, propose to significantly limit state and local governments' ability to use yellow rectangular rapid flashing beacons (RRFBs) at pedestrian crossings, among other provisions. The bill stipulates that by October 1, 2022, the Florida Department of Transportation shall request federal authorization to allow yellow RRFBs to be replaced by red RRFBs. If authorization is granted, the entity with jurisdiction over such crosswalk will have 12 months to implement the change or remove the yellow RRFB. If authorization is not granted, yellow RRFBs must be removed from roadways with a speed limit of 30 miles per hour or greater by October 1, 2025. A late amendment to the bill also requires advance pavement markings for any mid-block pedestrian crossing, irrespective of signalization. The bill passed the House and has been received by the Senate.

While the bill sponsor has been promoting the provision that would require turning the yellow flashing lights to red, in fact the proposed law would be much more damaging, forcing the removal of RRFBs on most roadways. Forward Pinellas has joined statewide efforts to oppose it.

#### Growth Management

[HB 59](#), filed by Representative McClain, proposes to require a Private Property Rights element to be adopted into local comprehensive plans, and allows amendment of certain development orders associated with developments of regional impact. Similar legislation was vetoed by the governor last year, although it contained other provisions of concern, such as a prohibition of countywide land use planning for smaller counties. This year's bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Relief From Burdens on Real Property Rights

[HB 421 & HB 1101](#) are two bills that were combined, and are now a single bill using both bill numbers. The proposed legislation would make it easier for private property owners to bring legal claims against local governments, while making it more difficult and expensive for local governments to defend their regulatory actions. Most concerning, it would allow a property owner to file a challenge under the Land Use and Environmental Dispute Resolution Act if a request for a comprehensive plan amendment is denied, reducing a local government's legislative authority to regulate land use to the status of a "dispute." The bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Florida Building Code

[HB 401](#), filed by Representatives Fetterhoff and Overdorf, would allow a "substantially affected person" to file a petition with the Florida Building Commission to review local land use or zoning regulations that serve as a "technical amendment" to the Florida Building Code, and issue a nonbinding advisory opinion on whether the regulations comply with applicable statutes. The bill has passed both the House and Senate, and is awaiting enrollment and presentation to the governor.

#### Small-Scale Amendments

[HB 487](#), filed by Representative Duggan, increases the maximum size of a small-scale comprehensive plan amendment from 10 to 50 acres. The bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Legal Notices

[HB 35](#), filed by Representative Fine proposes to allow a local government to advertise public hearings on "a publicly accessible website" in lieu of a newspaper, provided that the local government maintains a registry of citizens who opt to be notified by mail or email, and advertises the availability of this service in a newspaper once per year. The bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Urban Agriculture

At the request of the City of St. Petersburg, [SB 628](#), filed by Senator Rouson, proposes to distinguish urban agriculture from traditional farming in rural areas, which is exempted from

most local land development regulations under the Florida Right to Farm Act. Forward Pinellas staff assisted with drafting previous iterations of the bill in 2019 and 2020. The original version of this year's bill would have allowed reasonable regulation or urban agricultural uses within statutorily designated dense urban land areas. However, due to concerns expressed by the Florida Farm Bureau, the bill was amended to instead create a pilot project allowing such regulation in up to five communities for three years. The bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Solar Electrical Generating Facilities

[SB 896](#), filed by Senator Brodeur, would permit solar facilities (including solar farms and related buildings, transmission lines and substations) as-of-right in agricultural land use categories and zoning districts. The uses would be required to comply with minimal criteria such as setbacks and buffering applicable to similar uses within the agricultural district.

The bill has passed both the House and Senate, and is awaiting presentation to the governor. It incorporates language originally filed in [SB 1008](#), by Senator Hutson, [SB 1960](#), by Senator Bean, and [HB 761](#), by Representative Overdorf, none of which made it through the committee process.

#### Impact Fees

[HB 337](#), filed by Representative DiCeglie, would place new conditions on impact fee collection by local governments. New definitions appear to allow the fees to be used only for emergency medical, fire, and law enforcement facilities. The bill would allow fees to be collected only if the local government has planned or funded capital improvements within the impact fee assessment district. Increases to impact fees would be limited to a maximum of 25% spread over two years or 50% spread over four. The bill has passed both the House and Senate, and is awaiting presentation to the governor.

#### Vacation Rentals

Two competing sets of bills were filed governing local regulation of vacation rentals. None of the bills made it all the way through the committee process.

[HB 1481](#), filed by Representative Goff-Marcil, and [SB 1988](#), filed by Senator Pizzo, would reduce some of the current state preemption on local regulation of vacation rentals. The bills propose to allow local governments to adopt land development regulations specific to vacation rentals, as long as they do not prohibit or regulate the siting of those uses or regulate the duration or frequency of stays; and allow grandfathered regulations adopted before June 1, 2011, to be amended without losing their grandfathered status.

[HB 219](#), filed by Representative Fischer, and [SB 522](#), filed by Senator Diaz, propose to further revise the State's preemption of local regulation of vacation rentals. The bills propose to expand the preemption to include local inspection or licensing of vacation rentals and regulation of online vacation rental advertising platforms; preserve the prohibition against regulating duration and frequency of stays; preserve the grandfathering of local regulations adopted prior to July 1, 2011, while adding a provision allowing amendments to make them less restrictive; and in the House bill, establish that vacation rentals may only be subject to other local regulations if they apply uniformly to all residential properties, potentially invalidating local ordinances for some non-grandfathered communities.

Regional Planning Councils

[SB 62](#), filed by Senator Bradley, proposes to abolish the state's regional planning councils. The bill did not make it all the way through the committee process.

Tampa Bay Area Regional Transit Authority

[SB 1130](#), filed by Senator Brandes, would dissolve TBARTA and distribute its assets to member local governments represented on the authority's board. The bill did not make it all the way through the committee process.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.

**Planners Advisory Committee – May 3, 2021**

**5A. Pinellas SPOTlight Emphasis Areas Update**



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**SUMMARY**

Forward Pinellas staff will provide a brief update on the status of the activities related to the SPOTlight Emphasis Areas.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.