

**INDIAN RIVER COUNTY, FLORIDA**

**M E M O R A N D U M**

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**TO:** The Honorable Members of the Planning and Zoning Commission

DEPARTMENT HEAD CONCURRENCE:

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Robert M. Keating, AICP; Community Development Director

**FROM:** Sasan Rohani, AICP  
Chief, Long-Range Planning

**DATE:** September 15, 2011

**SUBJECT:** County Initiated Request to Amend The Text of Several Elements of the County's Comprehensive Plan

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It is requested that the data herein presented be given formal consideration by the Planning and Zoning Commission at its regular meeting of September 22, 2011.

**DESCRIPTION AND CONDITIONS**

This is a county initiated request to amend the text of several elements and sub-elements of the county's Comprehensive Plan. The purpose of this amendment is to ensure that the plan has correct references to existing county committees, is consistent with revised state requirements, and reflects correct information.

The elements and sub-elements proposed to be revised are: the Introductory, Future Land Use, Transportation, Capital Improvements, Intergovernmental Coordination, Coastal Management, Housing, Economic Development, and Conservation Elements as well as the Solid Waste, and Stormwater Management sub-elements of the county's comprehensive plan.

**Comprehensive Plan Amendment Review Procedures**

Although the number of plan amendments that the county may consider is not limited, the County's Comprehensive Plan regulates the frequency with which the county may amend its comprehensive plan. According to the County's Comprehensive Plan, plan amendments are limited to twice per calendar year. For that reason, the county accepts general plan amendment applications only during the "window" months of January and July. In this case, the subject application was submitted during the July 2011 window.

The procedures for reviewing a comprehensive plan amendment involve several steps. First, the Planning and Zoning Commission, as the Local Planning Agency, conducts a public hearing to review

the request. The Commission has the option to recommend approval or denial of the Comprehensive Plan amendment request to the Board of County Commissioners.

Following Planning and Zoning Commission action, the Board of County Commissioners conducts two public hearings. The first of those hearings is for a preliminary decision on the amendment request. At that hearing, the Board determines whether or not the amendment warrants transmittal to state and regional review agencies for their consideration.

If the Comprehensive Plan amendment is transmitted, state and regional review agencies will review the amendment as it pertains to each agency's focus area. Review agencies will then send their comments directly to the county and State Land Planning Agency. Subsequent to staff addressing any issues that were raised by the review agencies, a second and final Board of County Commissioners public hearing is conducted. If the Board approves the request, the approved amendment is submitted to the State Land Planning Agency and other review agencies that provided comments. The amendment becomes effective 31 days after the State Land Planning Agency determines that the amendment package is complete unless a petition is filed by an affected party.

This public hearing is the first step in the comprehensive plan amendment process. At this time, the Planning and Zoning Commission must decide whether or not to recommend approval of the proposed amendment to the Board of County Commissioners.

### **Proposed Amendment**

Since the county's Evaluation and Appraisal Report based comprehensive plan amendment was adopted by the Board of County Commissioners on October 12, 2010, both the County Commission and the state legislature have undertaken initiatives that require an update of the county's comprehensive plan. These initiatives are:

- Recently, the Board of County Commissioners eliminated several county committees. Three of those eliminated county committees (Historic Resources Advisory Committee, Professional Services Advisory Committee, and Conservation Land Advisory Committee) are referenced in four comprehensive plan policies. The four policies that contain references to the eliminated committees are Future Land Use Element Policy 8.1, Economic Development Element Policy 4.2, Housing Element Policy 1.7, and Conservation Element Policy 12.4. Those four plan policies must be revised.
- At the state level, the 2011 state legislature, as part of HB 7207, repealed Rule 9J-5, FAC and 9J-11, FAC. Throughout the county's comprehensive plan, there are various references to Rule 9J-5, FAC and Rule 9J-11, FAC. Those references must either be revised as appropriate or be deleted.

In addition to the above referenced changes, there are several minor revisions and corrections to the adopted plan that are needed.

For each proposed change, the following table identifies the policy, objective, table, and/or page proposed for amendment.

## Proposed Comprehensive Plan Changes

<b>References to proposed changes for repealed Ch. 9J-5, FAC., and Ch. 9J-11, FAC</b>	<b>References to proposed changes for eliminated county committees</b>	<b>Other Minor Changes</b>
- Page 3 of the Introductory Element text	- Policy 8.1 of the Future Land Use Element (eliminating reference to Historic Resources Advisory Committee), pages 164 and 165	- Revise Policy 1.10 of the Future Land Use Element by adding Recycling Facilities to the list of uses allowed in the agriculturally designated land use categories, pages 134 and 135
- Page 4 of the Introductory Element text	-Policy 4.2 of the Economic Development Element (eliminating reference to Professional Services Advisory Committee), page 49	- Revise Table 2.14 of the Future Land Use Element by indicating that PD zoning district is not allowed under the MHRP land use category, page 183
- Page 20 and 21 of the Introductory Element text	- Policy 1.7 of the Housing Element (eliminating reference to Professional Services Advisory Committee), page 48	- Revise Policy 2.5 of the Housing Element by correcting a typo, page 50
- Policy 14.1 of the Future Land Use Element, pages 169 and 170	Policy 12.4 of the Conservation Element (eliminating reference to Conservation Land Advisory Committee (CLAC)), page 141	- Revise Policy 4.11 of the Housing Element by correcting a typo, page 53
- Page 19 of the Solid Waste Sub-Element text		
- Objective 7 of the Stormwater Management Sub-Element, page 45		
- Page 14 of the Transportation Element text		
- Page 107 of the Transportation Element text		
- Page 47 of the Capital Improvements Element text		
- Policy 1.2 of the Capital Improvements Element, page 52		
- Page 64 of the Capital Improvements Element text		
- Objective 7 of the Coastal Management Element, page 53		
- Policy 10.1 of Coastal Management Element, page 56		
- Pages 36 and 37 of the Intergovernmental Coordination Element text		

## **ANALYSIS**

Because of recent changes at both the state and local levels, the county's comprehensive plan is now inconsistent with current regulations. For those inconsistencies to be resolved, the county's comprehensive plan must be updated. While the proposed changes, shown in ~~strike thru~~ and underlined format, are minor in nature, the changes are necessary to make the county's comprehensive plan consistent with current state and local conditions.

In eight elements or sub-elements of the county plan, there are references to Ch. 9J-5, FAC. and/or Ch.9J-11, FAC. With the proposed amendment, these references will be eliminated and replaced with appropriate citations to the state law. Also, four policies of the plan have references to the Historic Resources Advisory Committee, the Professional Services Advisory Committee, or the Conservation Land Advisory Committee. Since the county recently eliminated those committees, the proposed amendment removes those references and revises the policies.

In addition to the above referenced changes, three other policies of the plan and table 2.14 of the Future Land Use Element are proposed to be changed. In the Future Land Use Element, policy 1.10 is proposed to be revised to add recycling facilities as a use allowed in the agriculturally designated land use categories. This change is to clarify that recycling is allowed in agriculturally designated areas, as currently allowed by the county's land development regulations. Also in the Future Land Use Element, Table 2.14 is proposed to be revised to correct an oversight. Currently, this table indicates that the PD zoning district is allowed under the Mobile Home Rental Park (NHRD) land use category. According to Ch. 915 of the LDRs, however, PD zoning is not allowed under the Mobile Home Rental Park (MHRP) land use category. To resolve that inconsistency, the proposed amendment modifies Table 2.14 to show that the PD zoning district is not permitted in the MHRP land use designation category. In the housing element, policies 2.5 and 4.1 are proposed to be amended to correct typos.

### **Consistency with Comprehensive Plan**

Comprehensive Plan amendment requests are reviewed for consistency with all applicable policies of the comprehensive plan. As per section 800.07(1) of the county code, the "comprehensive plan may only be amended in such a way as to preserve the internal consistency of the plan.

For a proposed amendment to be consistent with the plan, the amendment must be consistent with the goals, objectives and policies of the comprehensive plan. Policies are statements in the plan, which identify actions the county will take in order to direct the community's development. As courses of action committed to by the county, policies provide the basis for all county land development related decisions-including plan amendment decisions. While all comprehensive plan objectives and policies are important, some have more applicability than others in reviewing plan amendment requests. Of particular applicability for this request is Policy 14.3.

### **Future Land Use Element Policy 14.3**

In evaluating a comprehensive plan amendment request, the most important consideration is Future Land Use Element Policy 14.3. This policy requires that one of four criteria be met in order to approve a comprehensive plan amendment request. These criteria are:

- The proposed amendment will correct a mistake in the approved plan;
- The proposed amendment is warranted based on a substantial change in circumstances affecting the subject property; or
- The proposed amendment involves a swap or reconfiguration of land use designations at separate sites, and that swap or reconfiguration will not increase the overall land use density or intensity depicted on the Future Land Use Map.

In this case, the proposed comprehensive plan amendment meets Policy 14.3's second and third criteria. With respect to the proposed changes involving committees and state law references, those modifications are due to changes in circumstances, in that the County Commission and the state legislature recently took actions which made the comprehensive plan inconsistent with state law and local regulations. In terms of Future Land Use Element Policy 1.10 and Table 2.14, the changes correct oversights in the plan. With Policy 1.10, the oversight was not listing recycling as a separate use category in the agricultural land use designation categories, even though the LDR's indicate that recycling is allowed in agricultural areas. With Table 2.14, there is a conflict between the table and the LDRs, and the table needs to be corrected to resolve that conflict.

### **Summary of Consistency with the Comprehensive Plan**

While Policy 14.3 is particularly applicable to this request, other Comprehensive Plan policies and objectives also have relevance. For that reason, staff evaluated the subject request for consistency with all applicable plan policies and objectives. Based upon that analysis, staff determined that the request is consistent with the County's Comprehensive Plan.

### **CONCLUSION**

Staff's position is that updating the county's comprehensive plan to make it consistent with current state and local conditions and to correct oversights is needed to ensure that the county's comprehensive plan remains current and applicable.

### **RECOMMENDATION:**

Based on the analysis, staff recommends that the Planning and Zoning Commission recommend that the Board of County Commissioners approve the proposed comprehensive plan text amendment for transmittal to state and regional review agencies.

### **ATTACHMENTS:**

1. Comprehensive Plan Text Amendment Application
2. Draft Comprehensive Plan Text Amendment