



Reply To: tduhy@llw-law.com

MEMORANDUM

TO: Ken Cassel
FROM: Tara W. Duhy, Esquire
DATE: August 1, 2022
SUBJECT: **Data and Analysis and Justification Statement**

I. Introduction

Minto PBLH, LLC, is requesting a small-scale comprehensive plan amendment to the City of Westlake’s Comprehensive Plan Future Land Use Map (“FLUM”) along with a rezoning for the parcel referred to as Pod PC-2, as more fully described in the Legal Description included as part of this application (“the Parcel”). Specifically, the Applicant is requesting that the future land use designation of the Parcel be amended from its current civic category to the downtown mixed use category and that the Parcel be rezoned from the civic district to the mixed use district. As will be discussed in greater detail below, these requests are consistent with the City’s Comprehensive Plan (“Plan”) and Land Development Regulations (“LDRs”) as well as the Community Planning Act.

II. Procedural Summary

The two applications qualify for concurrent processing pursuant to Chapter 3, Article 2.3, Section 3 of the City’s Land Development Regulations. A pre-application meeting was held with the City Manager and City attorney on July 15, 2022.

Small Scale Comprehensive Plan Amendment

The requested Amendment is consistent with Policy ADM 1.1.4 of the City’s Plan and qualifies to be processed as a small-scale comprehensive plan amendment pursuant to Chapter 2, Article 2.2, Section 2(A) of the City’s LDRs, which provides:

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(1) Comprehensive Plan amendment applications that meet the following criteria will be processed as Small-Scale Plan Amendments. In order to be processed as a Small-Scale Plan Amendment:

- (a) The proposed amendment relates to a parcel that is less than 10 acres in size;
- (b) The proposed amendment is only for a site-specific small scale development activity;
- (c) The parcel that is the subject of the proposed amendment is not located within an area of critical state concern;
- (d) The City must not have approved more than 120 acres of small scale amendments in the calendar year in which the application is submitted; and
- (e) Text amendments associated with the Small-Scale Plan Amendment to the Future Land Use Map ("Small Scale Map Amendment") are directly related to and will be adopted simultaneously with the Small-Scale Map Amendment

The Parcel is approximately 9.137 acres in size and the Applicant is only requesting an amendment to the FLUM for small scale development activity. The Parcel is not located within an area of critical state concern and the City has not approved any small-scale amendments in the current calendar year. Finally, while permitted, the Applicant is not seeking any text amendments related to the requested small-scale amendment. Therefore, the application is consistent with the City's LDRs. For the same reasons, the subject application is consistent with the requirements Section 163.3187, Florida Statutes.

Pursuant to Section 163.3187(2), Florida Statutes and Table 2.1 of Chapter 3 of the City's LDRs, a small-scale comprehensive plan amendment only requires one public hearing before the City Council, which shall be an adoption hearing as described in Section 163.3184(11), Florida Statutes.¹ "Small scale amendments may not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or Administrative Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance." Section 163.3187(5)(c), Florida Statutes.

Rezoning

The requested rezoning is contingent on approval of the requested small-scale amendment to the City's FLUM and is consistent with the City's Plan and LDR. Pursuant to the Table 2-1 of Chapter 3 of

¹ The City Code also requires that small-scale amendments be heard by the Land Planning Agency.

the City's LDRs, a Rezoning is subject to approval by the City Council and must be heard by the Land Planning Agency.

III. Comprehensive Plan Consistency and Compliance Analysis

Florida Statutes requires that "[c]omprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177." See Section 163.3187(4), Florida Statutes. Section 163.3184 also requires that comprehensive plan amendments be "consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248."

In addition, Policies FLU 1.1.1 and FLU 1.1.2 of the City's Plan requires that "[a]ll future development orders shall be consistent with the Plan," and "[a]mendments to the Plan, including the Future Land Use Map (FLU Map 2.1) shall be consistent with all Florida Statute Requirements."

Below, please find an analysis demonstrating that the requested small-scale amendment and related rezoning are compatible with the City's Plan and are in compliance with all applicable Florida Statutes.²

Consistency with Policy FLU 1.1.15, HE 1.2.1, and the data and analysis supporting the existing FLUM

The existing FLUM Category and Zoning District of the Parcel is civic. A future land use amendment and zoning change are requested to allow the potential development of additional non-residential uses to offset the existing development of a significant portion of the current downtown mixed use land area with civic uses. The City has approved the development of the Christ Fellowship Center located on the southern portion of Pod J along Seminole Pratt Whitney Road, consisting of approximately 68,000 square feet of civic uses on thirteen (13) acres. While civic uses are permissible within the downtown mixed use designation, Policy FLU 1.1.15(d) provides that the downtown mixed use area as a whole be developed with a minimum and maximum mix of residential, commercial, civic, light industrial and institutional uses. To maintain the balance called for in Policy 1.1.15, the subject amendment will offset the development of civic uses on thirteen acres of the existing downtown mixed use land area by adding commercial and other non-residential uses to the list of allowable uses on the subject Parcel.³

This request is supported by HE Policy 1.2.1, which provides:

Policy HE 1.2.1 Allow for and support commercial and light industrial development, which will provide employment

² Sections 163.3178 (Coastal management), 163.3191 (Evaluation and appraisal of comprehensive plan), 163.3245 (Sector Plans), and 163.3248 (Rural land stewardship areas) are not applicable to the subject request.

³ Residential uses are not permitted within the Civic category but are permitted within the downtown mixed use category. While the Applicant does not anticipate the Parcel developing with residential uses, the same justification applies – the amendment will not call for any development not already contemplated by the Plan.

opportunities within the City to enable the purchase or rent of affordable housing.

By approving the requested amendment, the City will maintain land area for commercial uses that support economic activities as originally conceived by the Plan, while still providing civic uses at a different location within the downtown.

Because 13 acres of current land designated with the downtown mixed use category have developed with civic uses, the proposed amendment, which will allow commercial and other non-residential development on the property, is consistent with the population projections, non-residential needs and public facilities analyses that support the existing Comprehensive Plan and Future Land Use Map. The proposed amendment will not call for any development above what is already contemplated by the Plan.

Compatibility – Policies FLU 1.6.1, 1.6.5, 1.6.7 and 1.6.8

Table 1 demonstrates future land use, zoning, and land use designations of the adjacent site parcels. The subject Parcel is separated from the existing Downtown Mixed Use District by Ilex Way.

Table 1: Adjacent Property Land Uses

TABLE 1 SURROUNDING LAND USES			
	FUTURE LAND USE	ZONING	LAND USE
NORTH	N/A	N/A	Roadway – Persimmon Blvd E
SOUTH	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
EAST	Residential 2	Residential 2 (R-2)	Single-Family Residential – Sky Cove South (Pod N)
WEST	N/A	N/A	Roadway – Ilex Way

The Plan addresses Consistency requirement in Objective 1.6. The proposed amendment is consistent with this Objective and its supporting Policies. Specifically, Policy FLU 1.6.1 reads:

Policy FLU 1.6.1 Establish land use patterns that promote walking, biking, and mass transit to access goods, services, education, employment, and recreation, thereby reducing automobile dependency, vehicle miles traveled, and vehicle emissions.

The Parcel is centrally located and surrounded by residential and mixed use districts. The proximity of Sky Cove South residents to the Parcel will allow for multi-modal transportation opportunities via

cycling and walking to the site, which may provide opportunities for work or shopping that are not currently available under the civic designation.

Policy FLU 1.6.5 Development abutting a different future land use category shall comply with the following minimum compatibility requirements. The City may adopt additional buffer requirements in the Land Development Regulations.

The proposed amendment is consistent with Policy FLU 1.6.5, which anticipates and addresses the development of different land uses adjacent to one another by requiring appropriate buffers and spacing. (See also Policies FLU 1.6.7 and 1.6.8, which provide alternative compatibility techniques). At the time a Site Plan is submitted for the Parcel, Policy 1.6.5 and implementing provisions of the City's LDRs will require the Parcel to achieve compatibility with adjacent existing residentially developed land. In addition, Sky Cove has a buffer averaging thirty-six feet (36') in depth along its western boundary and twenty to twenty-five feet (20'-25') along its northern boundary, adjacent to Parcel C-2. This condition further demonstrates the compatibility of the proposed land use amendment with the adjacent residential development.

Public Facilities – Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2

The proposed small-scale amendment to the FLUM and related rezoning are consistent with Policies FLUE 1.4.2, TE 1.2.3, TE 1.2.7, INF 1.1.5, INF 1.1.6, INF 1.3.5, INF 1.3.6, INF 1.5.7, INF 1.5.8, INF 1.6.5, and CIE 1.3.2 of the Comprehensive Plan which address public facilities within the City.

As mentioned above, the proposed amendment will not call for any development not already contemplated by the Plan. Thus, the underlying data and analysis for the existing Comprehensive Plan support the proposed amendment. Concurrency for drainage, potable water, wastewater, and solid waste will be addressed through the Site Planning process for any proposed use on the Property pursuant to Chapter 2, Article 2.2, Section 3. Thus, the subject amendment is consistent with the City's Comprehensive Plan relative to the provision of public facilities.

IV. Consistency with City LDRs

The Applicant proposes a mixed use zoning district within the downtown mixed use future land use designation, which is deemed consistent and pursuant to Chapter 3, Article 3.2, Section 1.

TABLE 3-1: FUTURE LAND USE CONSISTENCY TABLE

Future Land Use Category	Consistent Zoning Districts
Downtown Mixed Use	Mixed Use (MU) Town Center (TC) Medical District (M) Civic (C) Open Space and Recreation (OSR) Planned Development (PD)

V. Conclusion

The Applicant is requesting approval of the small-scale comprehensive plan amendment to the FLUM of the City's Plan as presented, along with the related rezoning, both of which are consistent with the City's Plan and LDRs as well as all applicable Florida Statutes.