

STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.

MEMORANDUM

**TO:** City Council  
City of Dunnellon

**FROM:** Kenneth B. Metcalf, AICP *KBM*

**RE:** City of Dunnellon Draft Comprehensive Plan Amendments

**DATE:** March 1, 2016

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The City of Dunnellon (City) engaged Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. (Stearns Weaver) to prepare draft Comprehensive Plan amendments in accordance with the requirements of the Grant Agreement (#2015-22) executed between the City and the Florida Department of Economic Opportunity (DEO). The primary purpose of the Grant Agreement is to ensure that the City expeditiously moves forward with the preparation and eventual adoption of Comprehensive Plan Amendments in order to comply with the requirements of s. 163.3190, Florida Statutes. This statute requires that the City:

- 1) Evaluate whether comprehensive plan amendments are necessary in response to changes in state laws. The City submitted an Evaluation Notice letter, dated November 19, 2014 to DEO, which specified the types of plan amendments that should be adopted. These types of comprehensive plan amendments are sometimes referred to as "evaluation-based" amendments.
- 2) Adopt evaluation-based comprehensive plan amendments within one year of submitting the Evaluation Notice letter. Due to the grant schedule, this was not possible, which resulted in a prohibition on the adoption of other types of plan amendments until such time as the City adopts the required evaluation-based plan amendments.

These scheduling requirements were reviewed at the December 9, 2015 Planning Workshop held with the City Council. As required by the Grant Agreement, Stearns Weaver worked with City staff to refine the Evaluation Notice letter, prepare the draft evaluation-based amendments and present the draft amendments to the Dunnellon Planning Commission (the City's Local Planning Agency) on February 19, 2016.

The City Council "transmittal hearing" is scheduled for March 14, 2016. Ken Metcalf, Planning Director for Stearns Weaver, will present the draft plan amendments, as revised based on the

recommendations of the City's Local Planning Agency. The purpose of the "transmittal hearing" is for the City Council to consider the recommendations of the Local Planning Agency, obtain public input on the proposed plan amendments, consider whether to further revise any of the proposed amendments and vote to "transmit" the proposed plan amendments to the state for review in accordance with the terms of the Grant Agreement. The transmittal hearing is not held for the purpose of adopting the amendments. Stearns Weaver recommends that the City Council vote on May 14<sup>th</sup> to transmit the proposed amendments, as may be revised by City Council at the hearing, in order to remain on schedule per the Grant Agreement requirements.

Following transmittal of the proposed amendments from the City, DEO will have 60 days to complete its review and submit an "Objections, Recommendations and Comments" (ORC) report or may decide to not issue an ORC report. As discussed at the workshop and at the Local Planning Agency hearing, the City will have up to 180 days to adopt the proposed amendments following review by the state, which will afford the opportunity to hold additional workshops on the plan amendments, if desired. I will go over the process again at the City Council transmittal hearing.

### **Local Planning Agency (LPA) Hearing**

The LPA recommended that the City Council transmit the proposed amendments to the State with two revisions, as follows:

- 1) Revise the proposed policies to opt out of transportation concurrency.

This recommendation is based on Stearns Weaver's analysis, which confirmed that the City's population decreased during the 2000-2010 period, and which determined that the implementation of transportation concurrency would continue to act as an obstacle for future growth in the City due to the inability to widen US 41. This situation places the City at a competitive disadvantage to other jurisdictions, including unincorporated Marion County and Citrus County, and would tend to encourage urban sprawl.

- 2) Revise proposed Capital Improvements Policy 1.4 to allow for additional flexibility to prioritize infrastructure to serve non-urban infill areas where the developer executes a service agreement with the City to contribute funding to advance the improvement.

This recommendation is based on an option presented by Ken Metcalf to include additional language to support the ability to negotiate development agreements or service agreements as a means to secure developer contributions toward the improvements. This approach is commonly

implemented by local governments and is already contemplated by the adopted Comprehensive Plan.

The proposed amendments are revised to implement these two recommendations. In addition, LPA members suggested that an executive summary should be provided. While the technical document provides a summary of the proposed amendments, the City Council may find the following summary to be helpful.

### **Summary of Amendments**

The proposed amendments include four types of changes based on the Evaluation Notice letter:

- 1) Minor amendments to delete outdated statutory and rule references, update policies with outdated target years and similar changes;
- 2) Minor amendments to reorganize the elements to improve readability and reduce redundancy;
- 3) Minor amendments to resolve internal conflicts and correct other provisions in accordance with previous statutory requirements;
- 4) Amendments to respond to statutory changes set forth in the Community Planning Act.

Based on statutory changes as referenced by the Evaluation Notice letter, the proposed amendments include only a handful of new policies. These are summarized and set forth below along with two proposed policy changes relating to transportation and recreation/parks concurrency:

- 1) **Establish Planning Periods.** Policy 6.1 below is proposed to define 2035 as the long range planning period, which is utilized for determining long term population projections, growth needs and infrastructure planning. **See Volume I Supplement (p. 8) for more detailed discussion and background.**

#### **FLUE Policy 6.1:**

The City of Dunnellon adopts two planning periods for the purposes set forth in the Comprehensive Plan. The short term planning period shall be five years, and the long range planning period shall be approximately twenty years, allowing for adjustment to coincide with decade or mid-decade years (i.e., 2035, 2040, etc.) to maximize coordination with other agency plan updates. The short term planning period shall be utilized primarily for capital improvements planning to meet the immediate needs for the community as addressed in the Capital Improvements Element. The long range planning

period shall be utilized to determine land use allocations based on population demand and other community needs and to appropriately plan for associated long term transportation, infrastructure and schools needs in coordination with Marion County, the Florida Department of Transportation, the Southwest Florida Water Management District and the Marion County School District. Population projections shall be updated at a minimum during each evaluation-based, comprehensive plan amendment cycle pursuant to Section 163.3191, Florida Statutes.

- 2) **Land Use Allocation Policy.** Policy 6.2 below is proposed to broaden the basis for considering “land use need” in determining whether to approve future land use map amendments and other comprehensive plan amendments affecting how much development can occur based on the land use categories. The Community Planning Act allows for consideration of broader community needs, such as “job creation, economic diversification and capital investment” rather than only population demand. **See Volume I Supplement (p. 17) for more detailed discussion and background.**

**FLUE Policy 6.2:**

The City of Dunnellon shall allocate sufficient residential and non-residential land uses to support community needs through the 20-year planning period. The population projections shall be based on the medium population projections published by the Office of Economic and Demographic Research for Marion County and shall allocate, at a minimum, a proportionate share of countywide population growth to the City, taking into account historic growth trends and potential alternative growth scenarios. In evaluating long term community needs, the City recognizes the following guiding principles:

- A. Support a diversity of residential housing types and products and allow for the operation of real estate markets as set forth in Section 163.3177(6)(a), Florida Statutes.
  - B. Encourage job creation, economic diversification and capital investment from the private sector to achieve and sustain a healthy local economy.
  - C. Provide opportunities for diverse growth within the City to discourage urban sprawl beyond the City corporate boundaries.
- 3) **Urban Sprawl Policy.** Policy 5.1 below recognizes that many plan amendments may involve urban infill sites that should not require an analysis of urban sprawl criteria, while other plan amendment sites, such as annexation sites at significant distance from urban development and urban services, should require an analysis by the applicant to demonstrate that the proposed amendment will discourage urban sprawl. To encourage infill development, this policy essentially exempts such sites from the requirement to

conduct the urban sprawl analysis. **See Volume I Supplement (p. 20) for more detailed discussion and background.**

**FLUE Policy 5.1:**

Applicants for large scale-future land use map amendments shall submit an evaluation to demonstrate that the proposed amendment discourages urban sprawl, based on the criteria set forth in Chapter 163, Florida Statutes, when any of the following conditions occur:

- A. The property is not contiguous on at least 50% of its boundary to parcels with existing residential, commercial or industrial development;
- B. The property is not proposed for a future land use category that is equal to or greater in allowable density or intensity as compared to the average density or intensity on adjacent developed parcels;
- C. The property is not proposed for a future land use category that is equal to or greater in allowable density or intensity as compared to the average density or intensity allowed by the Future Land Use Map designation on adjacent developed parcels;
- D. The property is not served by central water or sewer at time of application and its nearest boundary is more than a half-mile from existing water or existing sewer;
- E. The property requires capacity improvements or other capital improvements to achieve adequate water or sewer service.

An application that exhibits one or more of the conditions above does not necessarily mean that it fails to discourage urban sprawl, but rather that it warrants more comprehensive review to demonstrate that it discourages urban sprawl. An applicant can demonstrate that an amendment discourages urban sprawl by analyzing the extent to which the applicant triggers the 13 indicators of urban sprawl set forth in Section 163.3177(6)(a)9.a, Florida Statutes, taking into account the context of the area. An applicant can also demonstrate that the plan amendment discourages urban sprawl based on the criteria set forth in Section 163.3177(6)(a)9.b, Florida Statutes. The City shall review the Application and make finding of facts determining whether the plan amendment discourages urban sprawl. At its discretion, the City may also conduct an evaluation of a plan amendment application which does not trigger an evaluation by the applicant based on the criteria in this policy.

- 4) **Capital Improvement Priorities Policy.** Policies CIE 1.4 and FLUE Policy 5.3 below are intended to work in conjunction with the urban sprawl policy to more effectively prioritize capital improvements to support urban infill and protect natural resources,

while providing the flexibility to service annexed properties, provided that the annexation property can demonstrate that the future land use category will discourage urban sprawl and provided that the owners execute a service agreement to contribute toward the required improvements, as recommended by the Local Planning Agency. **See Volume I Supplement (p. 39) for more detailed discussion and background.**

**CIE Policy 1.4:**

In order to discourage urban sprawl, the City shall prioritize capital improvement expenditures for water, sewer and drainage based on the following order:

- A. Correcting existing system deficiencies, including replacement or upgrade of existing system components, with the highest priority given to correcting known health or safety deficiencies;
- B. Extension of lines or provision of other infrastructure upgrades to serve existing infill developments where deemed necessary due to known performance problems with existing water or sewer lines, private wells, septic systems, stormwater conveyance or treatment facilities or where a concentration of septic systems occur within an area identified as a risk to groundwater quality.
- C. Existing system improvements to meet adopted level of service standards.
- D. Extension of lines or provision of other infrastructure upgrades to serve existing infill developments or vacant infill properties where such service is deemed fiscally prudent based on the policies of the Capital Improvements Element.
- E. Extension of lines or provision of other infrastructure upgrades to serve existing, non-infill developments deemed necessary due to known performance problems with existing water or sewer lines, private wells, septic systems, stormwater conveyance or treatment facilities or where a concentration of septic systems occur within an area identified as a risk to groundwater quality.
- F. Extension of lines or provision of other infrastructure upgrades not meeting the above criteria and consistent with Future Land Use Policy 5.1.

For the purpose of this policy, infill is defined as an existing development at a density over two units per acre or higher or non-residential development with sewage flows greater than 1,500 gallons per acre, or a vacant parcel with a future land use category meeting the same criteria, where the existing development or vacant parcel is located within a quarter mile of a water or sewer line or is contiguous to other parcels served by water or sewer. In applying this policy, the City shall have the flexibility to prioritize provision of infrastructure to serve new development as specified in Policy 1.4.F, in

situations where the developer executes a service agreement, which the City deems sufficient to advance the improvement.

**FLUE Policy 5.3:**

Extension of services within the Dunnellon City Limits shall be consistent with the prioritization policies set forth in the Capital Improvement Element. Service agreements shall be required in order to extend services to unincorporated areas or proposed annexation areas and shall demonstrate they will be fiscally advantageous to the City and will discourage urban sprawl. This does not prohibit extension of services to unincorporated areas where needed to ensure protection of public health and safety.

- 5) **Airport Compatibility Objective and Policies.** Objective 8 and the set of policies below are required as a result of the City annexing land adjacent to the airport. The proposed amendments define coordination policies regarding the airport, and land use policies to ensure compatibility of land uses within the City based on safety hazard zones, clear zones and noise zones. **See Volume I Supplement (p. 39) for more detailed discussion and background.**

**FLUE Objective 8:**

The City of Dunnellon shall prohibit land uses and development that are defined as incompatible with normal airport operations at the Dunnellon Airport.

**FLUE Policy 8.1:**

The City of Dunnellon shall coordinate with Marion County to execute an interlocal agreement or formulate a Joint Airport Zoning Board by January 1, 2017 to ensure that decision-making by both jurisdictions are adequately coordinated regarding Marion County airport planning and Dunnellon land use and transportation planning.

**FLUE Policy 8.2:**

The City of Dunnellon shall prohibit public education facilities and residential uses and development within noise compatibility zones, as defined by 333.03(2)(c) and (d), Florida Statutes, as applicable. The City shall confirm the extent of existing noise compatibility zones with Marion County, and the potential extent of future noise compatibility zones based on any runway modifications that may be considered by Marion County.

**FLUE Policy 8.3:**

The City of Dunnellon shall prohibit the following uses within clear zones, as defined by 333.03(3), Florida Statutes:

- A. Public and private education schools.
- B. Uses encouraging or requiring a concentration of people, such as auditoriums, arenas, large-scale multifamily development and large-scale office uses.
- C. Industrial uses which emit smoke and uses which emit light that could potentially pose a hazard to aircraft operations.

**FLUE Policy 8.4:**

The City of Dunnellon shall not allow obstructions, such as buildings, structures, poles and trees to penetrate airport hazard zone surfaces occurring within its jurisdiction. The City limits building height to 40' within all future land use categories. Prior to considering any future amendment to the 40' building height standard, the City shall document that any proposed building height standard would not penetrate applicable airport hazard zones and surfaces, as defined by the Federal Aviation Administration.

**FLUE Policy 8.5:**

The City of Dunnellon shall adopt an airport zoning overlay by January 1, 2017 to implement land development regulations based on Objective 8 and its implementing policies.

- 6) **Transportation Concurrency.** Policy 1.1 below change deletes reference to an adopted Level of Service (LOS) standard for concurrency purposes and instead recognizes LOS C as a general guideline. The City does not have the ability to widen U.S. 41. The current policy adopts the LOS "C" standard and a designation of backlogged, which effectively prevents economic development in the City. The Community Planning Act made concurrency optional so that local governments could achieve economic growth, particularly in situations where it is not physically possible to widen roadways to maintain the adopted LOS standard. **See Volume I Supplement (p. 30) for more detailed discussion and background.**

**TCE Policy 1.1:** The City shall utilize level of service (LOS) "C" as a general guide for the purpose of coordinating with the TPO on short and long range transportation improvements. In order to encourage urban infill and economic development, the City shall not implement transportation concurrency or adopt LOS standards for regulatory

purposes. This policy does not limit the City's ability to consider legislative decision in approving or denying comprehensive plan amendments.

- 7) **Recreation/Parks Level of Service Standard/Concurrency.** The changes in Objective 1 and Policies 1.1 and 1.2 below are required in order to clarify that only public parks can be counted toward satisfying the adopted LOS standard. Private facilities cannot be counted toward compliance with the adopted LOS standard. See Volume I Supplement (p. 36) for more detailed discussion and background.

**ROSE Objective 1:**

~~Coordinate public and private resources in order to provide~~ Provide land, recreational facilities and parks to meet adopted level of service standards.

**ROSE Policy 1.1:**

The City shall maintain a level of service standard of 2 acres per 1,000 population for its neighborhood parks, defined as fewer than five (5) acres.

**ROSE Policy 1.2:**

The City shall maintain a level of service standard of 2 acres per 1,000 ~~persons~~population for its community parks, defined as five (5) acres or more.

These are the primary policy changes in response to statutory changes. The balance of the proposed amendments involves minor amendments that are non-substantive in nature. Please note that some members of the public expressed concern at the LPA hearing that the proposed amendments do not establish a vision for Dunnellon or otherwise address other significant policy issues, such as development setbacks along the river. Those issues are not within the scope of the EAR-based amendments identified in the City Evaluation Notice letter and are not identified as changes to be included in this set of amendments as summarized by the DEO grant. As discussed at the December 9, 2015 workshop, the City is prohibited from adopting other types of plan amendments until such time as the EAR-based amendments are adopted and submitted to DEO.

I look forward to presenting the amendments at the City Council public hearing on March 14, 2016.