

**PINELLAS PLANNING COUNCIL
AGENDA MEMORANDUM**

AGENDA ITEM: V A.

MEETING DATE: May 20, 2009

SUBJECT:

Consistency Follow-up Actions

RECOMMENDATION:

Council Receive, Discuss and Provide Direction As Appropriate

I. INTRODUCTION

Based on the Countywide Planning Authority (CPA) direction to examine and identify the current status of each local government's comprehensive plan (plan) and land development regulations (code) for consistency with the Countywide Rules, a report entitled *Review of Local Government Future Land Use Plans and Land Development Regulations for Consistency with the Countywide Rules* (Consistency Report) was prepared. The Consistency Report, approved by the PPC and CPA, identified issues to be resolved and recommended amendments to be made to the local governments' plans and codes in order to address inconsistencies with the Countywide Rules. The Report also concluded that some inconsistencies were best addressed by amendments to the Countywide Rules.

With the approval of Ordinance No. 09-9, the Countywide Rules were amended to address consistency issues best handled through the Rules. Four of the twenty-five local governments have resolved all of the issues identified in their plans and/or codes. Other local governments have made some, but not all, of the changes required. The Council staff now recommends beginning the process of issuing updated Determinations of Consistency to the local governments, contingent upon resolution of any remaining issues identified in the Consistency Report and subsequently reviewed with each jurisdiction.

II. BACKGROUND

The Council staff has drafted two letters, a local ordinance statement and a resolution for the PPC to review and consider. The two letters (Attachments 1 and 2) are proposed to serve as models for the letters to be mailed to the local governments, identifying the status of the resolution of the issues identified in the Consistency Report, offering to assist with drafting plan and/or code amendment ordinances needed to resolve any outstanding issues, informing the local governments of the forthcoming process of presenting the Determinations of Consistency and noting that print copies of the amended Rules will be distributed soon. One

PINELLAS PLANNING COUNCIL ACTION:

COUNTYWIDE PLANNING AUTHORITY ACTION:

SUBJECT: Consistency Follow-Up Actions

sample letter is addressed to the City of Belleair Beach, a local government which has resolved all of the issues identified in the Consistency Report and subsequently coordinated with the City. The second sample letter is addressed to the Town of Indian Shores, a local government which has a few remaining Consistency Report issues to be addressed. Comparable letters will be customized and sent to each jurisdiction.

Consistency is in fact an ongoing process, as the local governments continually amend their plans and codes and as the PPC/CPA recommends/approves amendments to the Countywide Rules. The Council staff, in cooperation with legal counsel, has drafted a statement (Attachment 3), which is recommended to be included in the local governments' future ordinances amending their plans and codes. The statement is intended to remind the local governments that plan and code amendments are required to be consistent with the Countywide Rules. The basis of authority, requirements and procedures regarding consistency are outlined in Article 3 of the Rules.

Lastly, the Council staff has drafted a resolution (Attachment 4) to be approved by the PPC and adopted by the CPA, determining that a local government's plan and code are consistent with the Rules, subject to any plan and/or code amendments required to resolve any remaining Consistency Report issues. The resolution also notes that at five-year intervals from the date of the resolution, the PPC will review the status of the local government's future land use element, future land use map and pertinent land development regulations in relationship to the Rules, and identify any recommended amendments to the local plan, local code or Countywide Rules required to maintain the consistency requirements of the Rules.

III. RECOMMENDATION

After discussion and input by the Council, if the draft letters, draft local ordinance statement and draft resolution are found satisfactory, staff will begin the process of mailing letters to the local governments over the next few months. Staff will allow a period of approximately one month after each letter is mailed to provide an opportunity for the local governments to discuss questions or comments about the content of the letter. Staff will then begin to prepare and process the Determinations of Consistency to be considered by the Council for each local government.

The objective is to have considered the Determinations of Consistency for each of the local governments by the end of the calendar year.

IV. PLANNERS ADVISORY COMMITTEE (PAC)

At their meeting on May 11, 2009, the PAC voted to move forward with the process subject to changing the timeframe of the subsequent consistency review period from 3 years to no less than 5 years (Vote 12-0). Draft PAC minutes are included as Attachment 5.

V. LIST OF ATTACHMENTS

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|--------------|--|
| Attachment 1 | Draft letter to City of Belleair Beach |
| Attachment 2 | Draft letter to Town of Indian Shores |
| Attachment 3 | Draft local ordinance statement |
| Attachment 4 | Draft resolution regarding updated Determinations of Consistency |
| Attachment 5 | Draft PAC Minutes of May 11, 2009 |

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Attachment 1

May 20, 2009

Ms. Nancy McCollum, City Manager
City of Belleair Beach
444 Causeway Boulevard
Belleair Beach, FL 33786-3399

Re: Consistency Reconciliation Actions

Dear Ms. McCollum:

This correspondence serves to inform you that the City has resolved the items that were identified in the Consistency Report prepared and adopted by the Pinellas Planning Council and Countywide Planning Authority. We very much appreciate the City's efforts in this process.

The Council staff is prepared to move forward with consideration and issuance of updated Determinations of Consistency for all twenty-five (25) local government jurisdictions over the next several months. We anticipate informing you shortly of the anticipated date for preparing and processing an updated "Determination of Consistency" for the City with the Pinellas Planning Council and the Countywide Planning Authority.

The issue of consistency is an ongoing one, as Belleair Beach's City Council approves amendments to the City's comprehensive plan and land development regulations, and as the Pinellas Planning Council and Countywide Planning Authority recommend and approve amendments to the Countywide Rules. In fact, several amendments to the Countywide Rules have been adopted subsequent to the Consistency Report and our work with the City to address consistency pursuant to the Report. The Council staff anticipates reprinting the Rules document in June to include these recent amendments and we will forward copies to the City which will provide a good opportunity to identify any amendments which may be necessary or desirable for the City to incorporate into their comprehensive plan or land development regulations.

Thank you for your continued cooperation throughout this process. If you have any questions, please feel free to call me at 464-8250.

Sincerely,

Christopher M. Mettler
Program Planner

cc: Vice Mayor/Commissioner Jerry Knight, PPC Representative
Mayor Lynn Rives
Jewel Cole, Managing Assistant County Attorney

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Attachment 2

May 20, 2009

Mr. Larry Nayman, Building Official
Town of Indian Shores
19305 Gulf Blvd.
Indian Shores, FL 33785

Re: Consistency Reconciliation Actions

Dear Mr. Nayman:

The Council staff is prepared to move forward with consideration and issuance of updated Determinations of Consistency for all twenty-five (25) local government jurisdictions over the next several months. We anticipate informing you shortly of the anticipated date for preparing and processing an updated "Determination of Consistency" for the Town with the Pinellas Planning Council and the Countywide Planning Authority. The updated Determination of Consistency issued for the Town will be conditioned upon resolution of the last remaining code issues outlined below:

- The Town land development regulations (LDRs) are required to be amended to provide a definition for "residential equivalent use" with the zoning definitions in Section 110-1. A definition consistent with the Countywide Rules is provided in the flood definitions in Section 86-36.
- The Town LDRs are required to be amended to provide a residential equivalent use density calculation formula for the I zoning district, which allows a nursing home as a permitted use. A nursing home is a residential equivalent use. A residential equivalent use density calculation formula is provided in Section 110-172(b)(6) for the ROR zoning district, addressing maximum density for the special use of adult congregate living facility.
- The Town's LDRs are required to be amended to provide a definition of "floor area ratio" with the zoning definitions in Section 110-1. The definition provided with the flood definitions in Section 86-36 is consistent, replacing the term "gross land area" with "buildable area of a lot," which is defined to exclude public road rights-of-way and submerged land.

If you have any questions about these remaining consistency issues, please contact the Council staff by [a month from the date of this letter], before we prepare and process an updated "Determination of Consistency" for the Town. We will be pleased to assist with drafting the code amendment ordinances necessary to address consistency for review and finalization by the Town.

The issue of consistency is an ongoing one, as Indian Shores' Town Council approves amendments to the Town's comprehensive plan and land development regulations, and as the Pinellas Planning Council and Countywide Planning Authority recommend and approve amendments to the Countywide Rules. In fact, several amendments to the Countywide Rules have been adopted subsequent to the Consistency Report and our work with the Town to address consistency pursuant to the Report. The Council staff anticipates reprinting the Rules document in June to include these recent amendments and we will forward copies to the Town which will provide a good opportunity to identify any amendments which may be necessary or desirable for the Town to incorporate into their comprehensive plan or land development regulations.

Thank you for your continued cooperation throughout this process. If you have any questions, please feel free to call me at 464-8250.

Sincerely,

Christopher M. Mettler
Program Planner

cc: James J. Lawrence, Mayor
Vice Mayor/Commissioner Jerry Knight, PPC Representative
Jewel Cole, Managing Assistant County Attorney

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Attachment 3

Section _____. The (City/Town/County) asserts that the (Future Land Use Element/Map/Land Development Regulations) adopted by this ordinance is consistent with the Countywide Future Land Use Plan and Rules as is required therein.

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Attachment 4

RESOLUTION NO. _____

**AN UPDATED DETERMINATION OF CONSISTENCY
FOR
THE CITY/TOWN/COUNTY OF _____**

A RESOLUTION APPROVING AN UPDATED DETERMINATION OF CONSISTENCY FOR _____, FLORIDA, IN ACCORDANCE WITH CHAPTER 88-464, LAWS OF FLORIDA, AS AMENDED AND THE RULES CONCERNING THE ADMINISTRATION OF THE COUNTYWIDE FUTURE LAND USE PLAN, AS AMENDED; PROVIDING FOR TRANSMITTAL OF SAID DETERMINATION; AND PROVIDING FOR THE FILING AND MAINTENANCE THEREOF.

WHEREAS, the Pinellas County Board of County Commissioners, in its capacity as the Countywide Planning Authority (CPA) has adopted the Countywide Future Land Use Plan and accompanying Rules Concerning the Administration of the Countywide Future Land Use Plan (Rules); and

WHEREAS, the Pinellas County Planning Council (PPC), pursuant to Chapter 88-464, Laws of Florida, as amended is required to develop rules, standards, policies and objectives that will implement the Countywide Future Land Use Plan, including the provisions for consistency therewith; and

WHEREAS, pursuant to this authority and the Countywide Future Land Use Plan and Rules, the PPC prepared and approved by Resolution No. 91-2, a report entitled, "The Countywide Consistency Report: Implementing the Consistency Requirements of Chapter 88-464, Laws of Florida, as amended" (Consistency Report No. 1), which report was accepted by the CPA by Resolution No. 91-307; and

WHEREAS, said Consistency Report established the initial process, timetable and guidelines by which to achieve consistency with the Countywide Future Land Use Plan and Rules; and

WHEREAS, pursuant to this process to determine and achieve consistency, the PPC by Resolution No. _____, and the CPA by Resolution No. _____, issued a Determination of Consistency for (City/Town/County) of _____ on _____; and

WHEREAS, given the passage of time and the need to reexamine compliance with the consistency requirements of the Rules, the CPA directed the PPC in November 2005 to examine and identify the current status of each local government plan and code with respect to consistency with the Countywide Future Land Use Plan and Rules; and

WHEREAS, the PPC undertook such examination and prepared a report entitled, "Review of Local Government Future Land Use Plans and Land Development Regulations for

Consistency with the Countywide Rules” (Consistency Report No. 2), which report the PPC approved by Resolution No. 07-2; and

WHEREAS, the CPA adopted Resolution No. 07-48 on April 3, 2007, approving Consistency Report No. 2; and

WHEREAS, pursuant to Consistency Report No. 2, amendments to both the Countywide Rules and the (City/Town/County) of _____ Future Land Use Element and Map and Land Development Regulations have been made that address consistency between the local government plan and regulations and the Rules;

NOW, THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Pinellas County, Florida, in its capacity as the Countywide Planning Authority, that:

Section 1. The (City/Town/County) of _____ Future Land Use Plan Element and Map and Land Development Regulations pertaining thereto, as referenced in Exhibit A attached hereto and made a part of this Resolution, are hereby determined to be consistent with the Countywide Future Land Use Plan and Rules in effect on this date, pursuant to the requirements therefor, subject to any amendments to the (City/Town/County) plan and regulations enumerated in Exhibit B attached hereto and hereby made a part of the Resolution which amendments shall be made within one (1) year of the date of this Resolution.

Section 2. Upon satisfactory completion of any such required amendments enumerated in Exhibit B, a letter shall be sent from the PPC chairman to the chief elected official of the local government attesting to their satisfactory completion.

Section 3. An official record copy of this Resolution shall be transmitted by the Board of County Commissioners in its capacity as the CPA, to the elected body and clerk of (City/Town/County) of _____, Florida.

Section 4. The PPC shall maintain an official record copy of this Resolution and Exhibits A and B, as well as the Rules in effect on the date of this Resolution.

Section 5. The PPC in its advisory capacity to the CPA shall review such future amendments to the (City/Town/County) of _____ Future Land Use Element and Map and Land Development Regulations as are governed by the consistency requirements and criteria of the Rules in order to maintain such consistency.

Section 6. At intervals of five (5) years from the date of this Resolution, the PPC will review the status of the (City/Town/County) of _____ Future Land Use Element and Map and pertinent Land Development Regulations in relationship to the Rules and identify any recommended amendments to either the local government plans and regulations or Rules required to maintain the consistency requirements of the Rules.

This Resolution offered and adopted at the _____, meeting of the Board, in its capacity as the Countywide Planning Authority, as hereinafter set forth:

Commissioner _____ offered the foregoing Resolution and moved its adoption, which was seconded by Commissioner _____, and the vote was:

AYES:

NAYS:

ABSENT AND NOT VOTING:

