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M E M O R A N D U M

TO: LAURI BELL
CC: GAYE HASTY
FROM: CRAIG L. GARRETT
DATE: NOVEMBER 9, 2022
RE: AMENDED RESOLUTION 22-11-016

I received your email this afternoon and have reviewed the sunset provision that was added as an amendment to the resolution which is to go before the Commission to amend the Zoning Ordinance. In my opinion, this sunset clause would not be effective as it is written.

My rationale for this is that state law mandates a specific procedure be followed to make an amendment to the Zoning Ordinance. The original amendment that has been submitted by the resolution sponsors calls for a specific amendment to the Zoning Ordinance. Therefore, as everyone knows, that will have to go before the Planning Commission and a public hearing would have to be conducted to comply with state law. If that resolution is approved, then the Zoning Ordinance would be amended.

The language of the sunset provision would allow the Zoning Ordinance to again be amended back by only a majority vote of the County Commission and that would not be proper. If this resolution is passed and the Commission then wants to change the Zoning Ordinance again, the statutory procedure would have to be followed to involve Planning Commission review and public hearing.

In summary, both of these purported votes by the County Commission (the one that will take place on the current resolution and any majority vote that takes place after November 1, 2025) would both have the effect of amending the Zoning Ordinance and both would have to comply with the statutory procedure of Planning Commission review and public hearing.

If the Commission chose to put the sunset clause in that provided the change would automatically expire without any further action by the Commission on November 1, 2025 (or some other date hereafter) then that would not be two amendments, but only one with a timeframe on it. In my opinion, that would probably be appropriate but I would need to do a little more research on that to make sure. If someone wants me to do the additional research, I will.